

**THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

CITY OF FERGUSON, et al.,)	
)	
Plaintiffs,)	
)	Cause No.: 16SL-CC02387
v.)	
)	Division: 5
ST. LOUIS AREA INSURANCE TRUST,)	
)	
Defendant.)	

**CITY OF FERGUSON'S MOTION FOR LEAVE
TO FILE AMENDED PETITION**

COMES NOW Plaintiff City of Ferguson and hereby seeks leave to file its Amended Petition (attached hereto at Tab A) against St. Louis Area Insurance Trust – the only amended pleading it has filed with the Court. As grounds for this filing, City of Ferguson states that the amended filing is being made to incorporate facts developed in discovery, including those obtained via the deposition of SLAIT’s corporate designee, which facts City of Ferguson believes clearly demonstrate SLAIT’s liability to City of Ferguson under the disputed liability insurance policy. While SLAIT’s counsel, after being presented with a copy of the Amended Petition, has represented that he does not consent to the filing of this Amended Petition, he has indicated that since the Missouri civil rules provide that leave should be freely granted, it is unlikely that SLAIT will file any objection to the filing. Given the current posture of this case, no party will be prejudiced by granting leave for the Amended Petition to be filed.

WHEREFORE Plaintiff City of Ferguson hereby pray for an Order from this Court granting it leave to file its Amended Petition attached hereto at Tab A.

Respectfully submitted,

LEWIS RICE LLC

By: /s/ Ronald A. Norwood
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*Attorneys for Plaintiff
City of Ferguson*

**CERTIFICATE OF SERVICE AND
CERTIFICATE OF COMPLIANCE WITH RULE 55.03(a)**

I hereby certify that a copy of the foregoing pleading was served by the Court's electronic filing system on this 28th day of August, 2018, on the counsel of record. In addition, the undersigned counsel certifies under Rule 55.03(a) of the Missouri Rules of Civil Procedure that he has signed the original of this Certificate and the foregoing pleading.

/s/ Ronald A. Norwood

Tab A

**THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

CITY OF FERGUSON, et al.,)	
)	
Plaintiffs,)	
)	Cause No.: 16SL-CC02387
v.)	
)	Division: 5
ST. LOUIS AREA INSURANCE TRUST,)	
)	
Defendant.)	

AMENDED PETITION OF THE CITY OF FERGUSON

COMES NOW Plaintiff City of Ferguson, Missouri ("City of Ferguson"), and for its Amended Petition against the St. Louis Area insurance Trust ("SLAIT"), states as follows:

GENERAL ALLEGATIONS

1. City of Ferguson is a constitutional charter home rule city located in St. Louis County, Missouri, which operates pursuant to Article VI, Section 19 of the Missouri Constitution and its Home Rule Charter.

2. Defendant SLAIT is an insurance trust, formed and operating under the laws of the State of Missouri, for the sole and specific purpose of providing a self-insured liability program and other self-insured programs for political subdivisions located within the State of Missouri.

3. For all relevant time periods, SLAIT procured one or more policies of insurance or reinsurance that provided coverage for certain liability losses covering various municipal entities, including City of Ferguson.

4. At all times relevant to this action, City of Ferguson was a

member/participant in SLAIT -- which was set up as a trust and, working in conjunction with its authorized agents, acted in a trust capacity in the administration of various insurance programs for SLAIT members. Pursuant to various Public Entity Liability Insurance Policies issued by SLAIT to City of Ferguson under its insurance programs, and given City of Ferguson's status as a SLAIT member and trust beneficiary, SLAIT, as well as various brokers and agents retained by SLAIT to procure insurance coverage for SLAIT members, owed City of Ferguson certain fiduciary duties, which duties included, but were not limited to, the following:

- a) a duty to procure appropriate liability insurance coverage for claims that might be asserted against City of Ferguson as it relates to its municipal operations;
- b) a duty to provide notice of any inability to obtain appropriate liability coverage for City of Ferguson as it relates to its municipal operations and provide timely notice of any gaps in liability coverage;
- c) a duty to provide a defense and defense counsel who would be free of any conflicts of interest, as well as avoid any conflicts of interest by SLAIT and any SLAIT agents, and, if such conflicts of interest arose, a duty to promptly notify City of Ferguson about such conflicts, to not exploit such conflicts for its own financial interests and to City of Ferguson's detriment, and to not aid and abet any such violations of any fiduciary obligations that might be owed to City of Ferguson;
- d) a duty to act honestly to effectually indemnify and save City of Ferguson harmless and make payments to effectuate a settlement in cases where requested to avoid financial harm to the City;
- e) a duty not to disregard the financial interests of City of Ferguson in the hopes of escaping the full responsibility imposed upon SLAIT by its policies and insurance programs;

- f) a duty to advise and provide proper and clear notice to City of Ferguson regarding the basis for any denial of coverage and provide a clear and proper reservations of any rights with respect to any dispute over liability coverage; and
- g) in the case of a lawsuit and demand by City of Ferguson, if SLAIT assumed control over any defense to litigation involving City of Ferguson, a duty to settle such lawsuits within any applicable policy limits and act in accordance with such directives regarding settlement to avoid financial harm and liability exposure for the City of Ferguson.

5. During various time periods, including Policy periods that extended from July 1, 2010 through July 1, 2015, City of Ferguson was covered by a SLAIT issued Public Entity Liability Insurance Policy – Claims Made (Policy #GL007-14)(hereinafter referred to as the “Policy” and a complete copy of which is attached hereto as Exhibit 1).

6. The Policy provided coverage to City of Ferguson for certain liability claims asserted against City of Ferguson, including “Claims” and damages because of “Bodily Injury,” “Person Injury,” “Property,” and “Errors and Omissions”.

7. Under the Policy, “Claim” is defined as “a demand received by any insured for damages alleging injury or damage to persons or property, including the institution of a suit for such damages against any insured.”

8. “Suit” is defined in the Policy as “a civil proceeding in which damages because of bodily injury, property damage, personal injury or advertising injury, acts, errors, or omission (or a first in a series of such offenses) to which this insurance applies are alleged.”

9. “Bodily Injury” is defined in the Policy as “bodily injury, sickness or

disease sustained by a person, including death resulting from any of these at any time.”

10. “Errors of Omission injury” is defined in the Policy as “injury (other than ‘bodily injury, property damage’, [sic] advertising injury’, or ‘personal injury’) that arises out of an insured’s act, error or omission (**or a related series of acts, errors or omissions**) within the scope of your operations.” (Emphasis added).

11. “Personal Injury” is defined in the Policy as including “injury (other than bodily injury) arising out of one or more of the following offenses: a) False arrest, detention or imprisonment; b) Malicious prosecution. . .”

12. “Property damage” is defined in the Policy as:

- “a) Physical injury to tangible property, including all resulting loss of use of that property; or
- b) Loss of use of tangible property that is not physically injured.”

13. In the Schedule of Included/Excluded Operations, the SLAIT Policy identified the following as “Included” in the coverages afforded to City of Ferguson and other SLAIT members under the Policy: “[a] Law Enforcement Activities (Bodily Injury and Property Damage Coverage Only),” “[b] Law Enforcement Activities (Personal Injury Coverage Only),” and “[c] Penal Institutions, Jails, Correctional Facilities.”

14. As part of the Policy, added as “Endorsement ‘C’,” (PERSONAL INJURY COVERAGE – LAW ENFORCEMENT OPERATIONS), it provides:

With respect only to coverage for your Law Enforcement Operations, the definition of **personal injury** is amended to

read:

“Personal Injury” means injury (other than **bodily injury**) arising out of one or more of the following offenses in the conduct of your law enforcement operations:

1) False arrest, detention or imprisonment;

2) Malicious prosecution;

* * * *

4) humiliation;

* * * *

6) false arrest or improper service of process;

7) violation of property rights.

15. The Policy provides for coverage of up to \$3 million for any individual claim and contains a general aggregate policy limit of up to \$7.5 million, which aggregate policy limit is triggered when there are multiple claims asserted against City of Ferguson within the Policy period.

16. On or about February 8, 2015, a putative class action lawsuit was filed against City of Ferguson in the United States District Court for the Eastern District of Missouri by several persons, which action is styled: *Keilee Fant et. al. v. City of Ferguson*, Cause # 4:15-00253-AGF. (Hereinafter referred to as the “*Fant Lawsuit*”). In the *Fant Lawsuit*, the *Fant* Plaintiffs claim that their constitutional rights, and the rights of other individuals, were violated, and are seeking relief that includes, but is not limited to, injunctive relief and money damages, individually and on a class-wide basis, for what they allege was a pattern and practice of arresting and detaining individuals indefinitely, in what they claim were substandard jail conditions, which, in certain cases, led to

personal injuries, physical abuses, and loss of monies (allegations in which City of Ferguson has denied).

17. Under the express terms of Policy with SLAIT, and by virtue of its participation and membership in the Trust, SLAIT, *inter alia*, had and has obligations to defend and indemnify City of Ferguson with respect to any such claims, loss or judgment arising from the *Fant* Lawsuit.

18. Both prior to the *Fant* Lawsuit and after the *Fant* Lawsuit was filed, SLAIT provided defenses and indemnification to multiple municipalities, including City of Ferguson, for similar claims brought against various SLAIT members for claimed violations of constitutional rights by those municipalities and claims relating to other similar municipal operations under the Policy form issued to City of Ferguson and other SLAIT members.

19. In response to a copy of the *Fant* Complaint sent by City of Ferguson, on July 22, 2015, an agent for SLAIT sent a letter to City of Ferguson wherein it agreed to defend the City of Ferguson under a reservation of rights, a complete copy of which letter is attached hereto as Exhibit 2. SLAIT assigned Peter Dunne and the Pitzer Snodgrass Law Firm to represent City of Ferguson. While that particular reservation of rights letter suggested that certain claims might not be covered, the letter implicitly acknowledged that other claims in the suit would be covered. However, nowhere in this letter did SLAIT suggest that there would not be coverage for the *Fant* Lawsuit under any claimed “class action” exclusion.

20. In assuming City of Ferguson’s defense of the *Fant* case, SLAIT

immediately began controlling the defense pursuant to Section VII of the Policy and, as of the date of this filing, continued to control that defense.

21. On March 4, 2016, SLAIT forwarded to City of Ferguson a second reservation of rights letter wherein SLAIT asserted a number of other purported (and now admittedly baseless) grounds for denying coverage, a complete copy of which letter is attached hereto as Exhibit 3. In this communication, SLAIT admitted that some of the *Fant* Lawsuit claims sought damages for “bodily injury and/or personal injury” and damages for “error or omissions injury” within the meaning of the Policy. Moreover, SLAIT relied on what it now claims is a so-called “Class Action Exclusion” contained in Endorsement “H” of the Policy as a basis for denying coverage.

22. Endorsement “H” in the Policy provides as follows:

EXCLUSION – CLASS ACTION SUITS

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE – CLAIMS MADE

We have no obligation under this policy to investigate, defend or pay any **damages**, judgments, loss, costs or expenses that may be awarded in a class action suit against any insured because of **bodily injury, property damage, personal injury, advertising injury, error or omissions injury or employee benefit injury sustained by any person in connection with the employment or prospective employment of any person by any insured.** (Bolded emphasis in the original and italicized emphasis added).

Hereinafter referred to as Endorsement “H” or the “Class Action Exclusion.”

23. Consequently, under the clear terms of the Endorsement “H,” this exclusion is expressly limited to actions instituted and seeking damage recovery

for any otherwise covered “injury” for claims asserted “in connection with the employment or prospective employment of any person by” City of Ferguson, i.e., employment related class action lawsuits.

24. In the March 4, 2016 reservation of rights letter, SLAIT asserted a number of claimed reasons why there might not be coverage for the *Fant* Lawsuit. However, the sole position taken by SLAIT as to why Endorsement “H” purportedly applied and precluded coverage was the suggestion that the *Fant* claims were “in connection with the employment of police officers and other personnel by the City of Ferguson.” SLAIT has not forwarded any reservation of rights letter to City of Ferguson claiming that Endorsement “H” is a broad-based class action exclusion that precludes coverage for any and all class action lawsuits.

25. At the time SLAIT assigned Peter Dunne and the Pitzer Snodgrass Law Firm to represent City of Ferguson, City of Ferguson was unaware that Peter Dunne and the Pitzer Snodgrass possessed various conflicts of interest (conflicts that SLAIT would ultimately exploit to further its own financial interests to the detriment of City of Ferguson’s interest) because a) Peter Dunne and the Pitzer Snodgrass Law Firm served as general counsel and coverage counsel for SLAIT, b) Peter Dunne and the Pitzer Snodgrass Law Firm would be asked to weigh in on coverage issues associated with coverage under the Policy for the City of Ferguson, including coverages that are at issue in this action, and c) the Pitzer Snodgrass Law Firm would ultimately recommend to SLAIT that SLAIT bring a lawsuit against City of Ferguson to establish the viability of various coverage

exclusions defenses to coverage, and SLAIT quickly acted on that recommendation by initiating the instant proceedings against City of Ferguson. If these facts had been made available to City of Ferguson, it would have objected to and rejected the assignment of Peter Dunne and Pitzer Snodgrass as defense counsel and/or rejected the defense being proffered by SLAIT.

26. On August 10, 2017, counsel for City of Ferguson forwarded a demand letter that it received from counsel for the *Fant* Plaintiffs demanding settlement in an amount that would ultimately permit settlement within the Policy limits (see letter attached hereto as Exhibit 4). In that August 10, 2017 letter, counsel for City of Ferguson advised that counsel for the *Fant* Plaintiffs had advised that they were willing to settle within the Policy limits, demanded that SLAIT work to settle the *Fant* case within those Policy limits, and pointed out how SLAIT's failure to do so would severely prejudice City of Ferguson. However, as of the date of this filing, SLAIT has made no efforts to settle the case within the Policy limits.

27. Ultimately, in a letter to City of Ferguson counsel dated November 27, 2017, and well after City of Ferguson had engaged in significant expense defending the claimed bases asserted for the denial of coverage via SLAIT's declaratory judgment claims, counsel for SLAIT acknowledged and admitted that, with the exception of the purported application of the Endorsement "H" exclusion, all of the other bases for the denial of coverage set forth in the declaratory judgment action SLAIT initiated against City of Ferguson (and, by inference, that were set forth in the reservation of rights letters) were baseless:

“I wanted to clarify that the coverage position taken by SLAIT is based on the [*Fant*] pleadings as they currently stand. As discussed, if the pleadings would change, SLAIT’s coverage position would be different. In particular, if the individual Plaintiffs’ claims were brought simply as individuals, and not as a class action, SLAIT would withdraw its reservation of rights. Instead, each individual’s claims would be treated as being within coverage as a claim for personal injury resulting from law enforcement operations. They would not be considered claims for bodily injury, property damage, advertising injury or errors or omissions.

I hope this clarification is helpful. Let me know if you have any questions.”

A copy of that November 27, 2017 letter is attached hereto as Exhibit 5.

28. In a deposition of SLAIT Corporate Designee Steve Wicker (pertinent excerpts for which are attached hereto as Exhibit 6), SLAIT made numerous binding admissions under oath that establish coverage for City of Ferguson and liability obligations under the Policy for SLAIT for the *Fant* Lawsuit, including, but not limited to, the following:

- a) Despite the claims asserted by SLAIT in these proceedings and the various grounds asserted by SLAIT in its reservation of rights letter, SLAIT has admitted that 1) the only arguably viable basis for the denial was its reliance on the purported Endorsement “H” exclusion, 2) the other claimed bases for coverage denial were non-meritorious, and 3) if the same *Fant* claims were pursued as individual claims, rather than asserted as class claims, there would be coverage for those claims under the Policy. (Steve Wicker Depo., pp. 57-60, 126-128, 130-131);
- b) SLAIT internally never had any discussions regarding the purported Endorsement “H” exclusion being added to the Policy as a preclusion against all class actions, never decided that SLAIT would have any broad-based class action exclusion as part of the SLAIT Policy when SLAIT established the liability coverages under the Policy, and SLAIT does not know if the language used in Endorsement “H” was intended to be limited to employment related class actions. (Steve Wicker Depo., pp. 60-62);

- c) SLAIT sought to raise the purported Endorsement “H” exclusion as a defense in pursuing its declaratory judgment action when it was not sure whether the exclusion even applied, knew that no court has ever ruled that Endorsement H precludes coverage for all types of class action lawsuits, and decided to raise that claimed exclusion because, in addition to the *Fant* Lawsuit, several other SLAIT members were being subjected to similar lawsuits (Steve Wicker Depo., pp. 62, 65);
- d) SLAIT never advised the City of Ferguson that there would not be coverage for such class action lawsuits at any time prior to the *Fant* Lawsuit and this action (Steve Wicker Depo, p. 64);
- e) The general aggregate policy limit of \$7.5 million would be triggered if there were multiple claims made within the Policy period (Steve Wicker Depo, p. 101);
- f) Anything associated with penal institutions, jails and correctional facilities is represented as being included as part of the Policy liability coverage (Steve Wicker Depo, p. 112);
- g) Unbeknownst to City of Ferguson, SLAIT retained Peter Dunne and the Pitzer Snodgrass Law Firm, which served as “exclusive panel counsel” for SLAIT members, when Peter Dunne and the Pitzer Snodgrass Law Firm served as general counsel for SLAIT advising SLAIT on policy endorsement issues, acted as SLAIT coverage counsel (including coverage issues directly related to the coverages claimed by City of Ferguson in this case), provided advice to SLAIT regarding coverage issues associated with the SLAIT policy and SLAIT members, and advised SLAIT on the reservation of rights letters sent by SLAIT to City of Ferguson and the applicability of various policy exclusions, including the claimed Class Action Exclusion relied upon by SLAIT in this lawsuit (Steve Wicker Depo, pp. 41-43, 55-56; 138-156);
- h) Peter Dunne and the Pitzer law firm ultimately recommended to SLAIT that SLAIT bring a declaratory judgment action against City of Ferguson in reliance upon that the purported Endorsement “H” exclusion, and SLAIT quickly acted on that recommendation by filing the declaratory judgment action in this Court. (Steve Wicker Depo, pp. 138-139);
- i) SLAIT was fully aware that discussing coverage issues with counsel retained to represent City of Ferguson would be and was a conflict of interest for that retained counsel and SLAIT, yet SLAIT exploited that conflict of interest for SLAIT’s benefit and to

the ultimate detriment of City of Ferguson (Steve Wicker Depo, pp. 41-43, 55-56; 134-135; 138-156);

- j) After Peter Dunne and the Pitzer Snodgrass Law Firm were disqualified as City of Ferguson counsel in the *Fant* case based on other conflicts of interest, SLAIT disputed over \$253,000 in attorneys' fees billed by Pitzer Snodgrass as improper. SLAIT has also alleged mismanagement of the case by failure to generate and retain now needed attorney notes and work product, and a serious lapse in judgment based on its hiring of an associate who worked with *Fant* Plaintiffs' counsel on City of Ferguson related litigation matters. SLAIT has also taken the position that Pitzer Snodgrass engaged in the intentional destruction of over 100,000 pages of electronic document production that had already been produced to the *Fant* Plaintiffs, and withheld that fact from the City of Ferguson as well as SLAIT -- the end result of which, along with Peter Dunne's and the Pitzer law firm's various conflicts of interest, have cost City of Ferguson unnecessary legal expenses in this case and in the *Fant* Lawsuit and have significantly prejudiced the City of Ferguson's defense in the *Fant* Lawsuit (Steve Wicker Depo, pp. 161-162);
- k) The claimed Class Action Exclusion is vague and ambiguous because the exclusion could be read to cover some but not all class actions, that reasonable people could read the exclusion differently, that exclusion could have been written more clearly, and that the Policy form was ultimately revised to make the exclusion easier to understand (Steve Wicker Depo, pp. 175-181); and
- l) Ultimately, because of ambiguity in the SLAIT Policy, SLAIT revised that Policy language to make clear that all class actions and defenses of class actions would not be covered under the Policy. (See new SLAIT Policy Form attached hereto as Exhibit 7; Steve Wicker Depo, pp. 170-172).

COUNT I – DECLARATION REGARDING COVERAGE AND AMOUNT

COMES NOW Plaintiff City of Ferguson, Missouri ("City of Ferguson") and for Count I of its Amended Petition against the St. Louis Area insurance Trust ("SLAIT"), states as follows:

29. City of Ferguson incorporates by reference as if fully set forth herein paragraphs 1 through 28.

30. Under the express language of the Policy, and in light of the binding admissions set forth in paragraphs 27 and 28 regarding coverage, City of Ferguson is entitled to a declaration from the Court that SLAIT has an obligation under the Policy to fully defend and fully indemnify City of Ferguson in the *Fant* Lawsuit up to the Policy limits.

31. City of Ferguson is also entitled to a declaration from the Court that Endorsement “H” does not bar coverage in this case because that endorsement, by its terms, is limited to employment related class action lawsuits.

32. Moreover, under the express language of the Policy, and in light of the binding admissions set forth in paragraph 28 regarding the aggregate coverage dollar amount, City of Ferguson is entitled to a declaration from the Court that SLAIT has indemnity obligations for the *Fant* Lawsuit up to the total general aggregate Policy limit of up to \$7.5 million, which general aggregate Policy limit is now triggered because the *Fant* Lawsuit involves multiple claims asserted against City of Ferguson within the pertinent Policy period.

WHEREFORE Plaintiff City of Ferguson respectfully requests that this Court find in favor of the City of Ferguson and declare that 1) SLAIT has an obligation under the Policy to fully defend and fully indemnify City of Ferguson in the *Fant* Lawsuit up to the Policy limits; 2) Endorsement “H” does not bar coverage in this case because that endorsement only excludes employment related class action lawsuits and the *Fant* Lawsuit is not an employment related

class action; 4) no other Policy endorsement, exclusion or other provision of the SLAIT policy precludes coverage with regard to the *Fant* Lawsuit; and 4) SLAIT has indemnity obligations for the *Fant* Lawsuit up to the total general aggregate Policy limit of up to \$7.5 million, which general aggregate Policy limit is now triggered because the *Fant* Lawsuit involves multiple claims asserted against City of Ferguson within the pertinent Policy period. City of Ferguson also prays that the Court award it reasonable attorneys' fees and costs incurred in connection with protecting City of Ferguson's interest and in avoiding further losses to City of Ferguson arising from SLAIT's various violations of its fiduciary duties, and aiding and abetting its agents breaches of fiduciary duties to City of Ferguson, and award the City of Ferguson such further and other relief as this Court deems just and proper.

COUNT II – DECLARATION REGARDING WAIVER OF ENDORSEMENT “H”

COMES NOW Plaintiff City of Ferguson, Missouri (“City of Ferguson”) and for Count II of its Amended Petition against the St. Louis Area insurance Trust (“SLAIT”), states as follows:

33. City of Ferguson incorporates by reference as if fully set forth herein paragraphs 1 through 32.

34. To the extend the Court concludes that Endorsement “H” has any applicability as it relates to the *Fant* Lawsuit, SLAIT is now precluded from denying liability due to any claim of non-coverage for the *Fant* Lawsuit because SLAIT did not provide any proper and effective reservation of rights letter clearly advising City of Ferguson as to the purported grounds for why Endorsement “H”

barred coverage and failed to apprise City of Ferguson of the multiple conflicts of interests that existed, which conflicts have been exploited by SLAIT.

WHEREFORE, Plaintiff City of Ferguson respectfully requests that this Court 1) declare that SLAIT is now precluded from denying liability due to any claim of non-coverage for the *Fant* Lawsuit because SLAIT did not provide any proper and effective reservation of rights letter clearly advising City of Ferguson as to the purported grounds for why Endorsement “H” barred coverage, 2) award City of Ferguson its attorneys’ fees and costs, and 3) enter such other and further relief as this Court deems just and proper.

COUNT III – VEXATIOUS REFUSAL TO PAY

COMES NOW Plaintiff City of Ferguson, Missouri (“City of Ferguson”) and for Count III of its Amended Petition against the St. Louis Area insurance Trust (“SLAIT”) states as follows:

35. City of Ferguson incorporates by reference as if fully set forth herein paragraphs 1 through 34.

36. SLAIT’s refusal to settle the case upon demand by City of Ferguson was and is vexatious because it has been done in bad faith, been facilitated by various breaches of fiduciary duty and SLAIT’s aiding and abetting breaches of fiduciary duty by counsel retained by SLAIT to represent City of Ferguson, and was all willful and without any reasonable cause or excuse, as it would appear to any reasonable person at the time or at any other time, as fully borne out by the Policy language, the *Fant* Lawsuit allegations and the binding admissions set forth in paragraphs 27 and 28 above.

37. Consequently, City of Ferguson is entitled to recover damages as provided for in Section 375.420, Mo.Rev.Stat., as well as reasonable attorney's fees in pursuing this action.

38. In addition, because SLAIT's conduct and that of its agents reflect evil motives and reckless indifference to the rights of City of Ferguson, SLAIT is liable to City of Ferguson for punitive damages in an amount sufficient to deter SLAIT and others from committing such wrongful actions in the future.

WHEREFORE, Plaintiff City of Ferguson respectfully requests that this Court enter judgment in favor of City of Ferguson for damages as permitted by Section 375.420, for the City of Ferguson reasonable attorneys' fees and costs incurred in pursuing this action, for punitive damages, and for such other and further relief as this Court deems just and proper.

COUNT IV – BAD FAITH REFUSAL TO SETTLE

COMES NOW Plaintiff City of Ferguson, Missouri ("City of Ferguson") and for Count IV of its Amended Petition against the St. Louis Area insurance Trust ("SLAIT") states as follows:

39. City of Ferguson incorporates by reference as if fully set forth herein paragraphs 1 through 38.

40. Because SLAIT has assumed control over negotiations, settlement and the *Fant* Lawsuit defense, City of Ferguson has demanded that SLAIT settle the *Fant* Lawsuit within the Policy limits.

41. SLAIT, in bad faith, has refused to settle the *Fant* Lawsuit within the Policy limits, and City of Ferguson has been damaged as a result.

Consequently, SLAIT is liable to City of Ferguson in tort for bad faith refusal to settle.

42. Consequently, City of Ferguson is entitled to recover damages, as well as reasonable attorney's fees incurred, occasioned by SLAIT bad faith refusal to settle.

43. In addition, because SLAIT's conduct, and that of its agents, reflect evil motives and reckless indifference to the rights of City of Ferguson, SLAIT is liable to City of Ferguson for punitive damages in an amount sufficient to deter SLAIT and others from committing such wrongful actions in the future.

WHEREFORE, Plaintiff City of Ferguson respectfully requests that this Court enter judgment in favor of City of Ferguson for compensatory damages, for the City of Ferguson reasonable attorneys' fees and costs incurred in pursuing this action, for punitive damages, and for such other and further relief as this Court deems just and proper.

COUNT V – BAD FAITH

COMES NOW Plaintiff City of Ferguson, Missouri ("City of Ferguson") and for Count V of its Amended Petition against the St. Louis Area insurance Trust ("SLAIT") states as follows:

44. City of Ferguson incorporates by reference as if fully set forth herein its responses to paragraphs 1 through 43.

45. By engaging in the conduct set forth herein, SLAIT and its agents have engaged in bad faith conduct that has resulted in damage to City of Ferguson.

46. In addition, because SLAIT's conduct, and that of its agents, reflect evil motives and reckless indifference to the rights of City of Ferguson, SLAIT is liable to City for Ferguson for punitive damages in an amount sufficient to deter SLAIT and others from committing such wrongful actions in the future.

WHEREFORE, Plaintiff City of Ferguson respectfully requests that this Court enter judgment in favor of City of Ferguson for compensatory damages, for the City of Ferguson reasonable attorneys' fees and costs incurred in pursuing this action, for punitive damages, and for such other and further relief as this Court deems just and proper.

COUNT VI – BREACH OF FIDUCIARY DUTY

COMES NOW Plaintiff City of Ferguson, Missouri ("City of Ferguson") and for Count VI of its Amended Petition against the St. Louis Area insurance Trust ("SLAIT") states as follows:

47. City of Ferguson incorporates by reference as if fully set forth herein paragraphs 1 through 46.

48. In light of SLAIT's various breaches of fiduciary duty and those of its agents, City of Ferguson has sustained damages.

49. In addition, because SLAIT's conduct, and that of its agents, reflect evil motives and reckless indifference to the rights of City of Ferguson, SLAIT is liable to City for Ferguson for punitive damages in an amount sufficient to deter SLAIT and others from committing such wrongful actions in the future.

WHEREFORE Plaintiff City of Ferguson respectfully requests that this Court enter judgment in favor of City of Ferguson for compensatory damages,

for the City of Ferguson reasonable attorneys' fees and costs incurred in pursuing this action, for punitive damages, and for such other and further relief as this Court deems just and proper.

COUNT VII – AIDING AND ABETTING A BREACH OF FIDUCIARY DUTY

COMES NOW Plaintiff City of Ferguson, Missouri ("City of Ferguson") and for Count VII of its Amended Petition against the St. Louis Area insurance Trust ("SLAIT") states as follows:

50. City of Ferguson incorporates by reference as if fully set forth herein paragraphs 1 through 49.

51. SLAIT actions, in addition to breaches of its own fiduciary duties owed to City of Ferguson, constitute the aiding and abetting of such breaches by counsel retained to represent City of Ferguson, as well as aiding and abetting such breaches by SLAIT agents.

52. In addition, because SLAIT's conduct, and that of its agents, reflect evil motives and reckless indifference to the rights of City of Ferguson, SLAIT is liable to City of Ferguson for punitive damages in an amount sufficient to deter SLAIT and others from committing such wrongful actions in the future.

WHEREFORE Plaintiff City of Ferguson respectfully requests that this Court enter judgment in favor of City of Ferguson for compensatory damages, for the City of Ferguson reasonable attorneys' fees and costs incurred in pursuing this action, for punitive damages, and for such other and further relief as this Court deems just and proper.

Respectfully submitted,

LEWIS RICE LLC

By: /s/ Ronald A. Norwood
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*Attorneys for Plaintiff City of
Ferguson*

CERTIFICATE OF SERVICE AND
CERTIFICATE OF COMPLIANCE WITH RULE 55.03(a)

I hereby certify that a copy of the foregoing pleading was served by the Court's electronic filing system on this 28th day of August, 2018, on the counsel of record. In addition, the undersigned counsel certifies under Rule 55.03(a) of the Missouri Rules of Civil Procedure that he has signed the original of this Certificate and the foregoing pleading.

/s/ Ronald A. Norwood

Exhibit 1

I Stephen D. Wicker do hereby agree this is a certified copy of the original document entitled "Public Entity Liability Insurance Policy" and the "Renewal Certificate" for the City of Ferguson for the July 1, 2014 through July 1, 2015 policy year.

Stephen D. Wicker
Stephen D. Wicker

May 11, 2016
May 11, 2016

On this 11th day of May in the year 2016 before me, Monica D. Billups, a Notary Public in and for the said state personally appeared Stephen D. Wicker, known to me to be the person who executed the within acknowledgement, and acknowledged to me that he executed the same for the purposes therein stated.

Monica D. Billups
Notary Public Signature

May 11, 2016
Date

Monica D. Billups
Type or Printed Name of Notary Public

My Commission Expires 7/29/2017

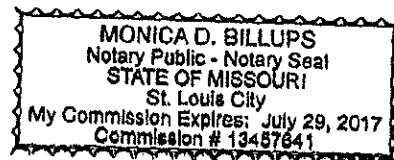


Exhibit 1

ST. LOUIS AREA INSURANCE TRUST

A Self-Insurance Pool

RENEWAL CERTIFICATE - City of Ferguson
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE
Page 2

Insurance is afforded for the following coverages and limits of Liability, subject to all terms of the policy relating thereto.

5. Coverage

Products-Completed Operations	
Per Occurrence Limit	\$3,000,000
Aggregate Limit	\$3,000,000
Bodily Injury and Property Damage (other than Products-Completed Operations)	
Per Occurrence Limit	\$3,000,000
Personal Injury and Advertising Injury	
Per Person or Organization Limit	\$3,000,000
Med Pay	\$ 250
General Aggregate Limit	\$7,500,000
Deductibles: Law Enforcement	\$2,500
General Liability (other than Law Enforcement)	\$500
Employee Benefits Liability	
Per Occurrence Limit	\$3,000,000
Aggregate Limit	\$3,000,000

6. Classifications: Refer to policy extension schedule
7. Description of Operations: See Schedule of Included/ Excluded Operations in policy.
8. Form Numbers of Endorsements that are part of this policy.

Endorsements A through S and including 001

This Policy will not be valid unless countersigned by duly authorized representative.

S. D. Wick
Authorized Agent

DATE: 6/13/14

PUBLIC ENTITY LIABILITY INSURANCE POLICY -
CLAIMS MADE

INDEX

DECLARATIONS PAGE

Your Name and Address
Policy Period
Retroactive Date
Premium
Coverage

The Declarations Page has the details of your policy - such as the term it is in effect, the coverage and limits, the premium and other facts about your insurance.

	Beginning On Page
AGREEMENT	1
SECTION I - DEFINITIONS	1
SECTION II - COVERAGE	8
SECTION III - APPLICATION OF POLICY	16
SECTION IV - WHO IS AN INSURED	17
SECTION V - SUPPLEMENTARY PAYMENTS	17
SECTION VI - LIMITS OF LIABILITY	19
SECTION VII - EXTENDED REPORTING PERIOD OPTION	20
SECTION VIII - CONDITIONS	21

Premiums
Inspections and Surveys
Examination of Your Books and Records
Duties in the Event of Occurrence, Claim or Suit
Legal Action Against Us
Transfer of Rights of Recovery Against Others To Us
Changes
Transfer of Your Rights and Duties Under This Policy
Bankruptcy
Other Insurance
Cancellation
Representations

PUBLIC ENTITY LIABILITY INSURANCE
POLICY - CLAIMS MADE POLICY PROVISIONS

THIS IS A "CLAIMS MADE" POLICY. PLEASE READ ALL PROVISIONS AND CONTACT YOUR AGENT IF YOU HAVE ANY QUESTIONS. YOUR POLICY APPLIES ONLY TO CLAIMS FOR INJURY OR DAMAGE MADE AGAINST YOU AFTER THE INCEPTION DATE AND BEFORE THE EXPIRATION DATE OF YOUR POLICY. IF A RETROACTIVE DATE APPLIES, YOUR POLICY WILL NOT COVER YOU FOR INJURY OF DAMAGE WHICH OCCURRED BEFORE THE RETROACTIVE DATE OR AFTER THE EXPIRATION DATE OF YOUR POLICY. UPON TERMINATION OF YOUR POLICY AN EXTENDED REPORTING PERIOD MAY BE AVAILABLE.

The insurance company writing this insurance is shown on the Declarations Page as the "insurer".

AGREEMENT

In return for payment of premium when due and subject to all the terms of this policy, we agree with you as follows:

SECTION I - DEFINITIONS

In this policy, "you" and "your" refer to the "named insured" shown in the Declarations.

"We", "us" and "our" refer to the company writing this insurance.

The word "insured" means any person or organization qualifying as such under SECTION IV - WHO IS AN INSURED.

Other words and phrases are defined below. They are boldfaced when used.

"Advertising Injury" means injury arising out of one or more of the following offenses:

- a) Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- b) Oral or written publication of material that violates a person's right of privacy;
- c) Misappropriation of advertising ideas or style of doing business.

"Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But auto does not include mobile equipment.

"Bodily Injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

"Claim" means a demand received by any insured for damages alleging injury or damage to persons or property, including the institution of a suit for such damages against any insured.

"Claim Expenses" means all expenses incurred by the insured or us in the investigation, negotiation, arbitration, settlement and defense of any claim or suit, whether paid by us or the insured, but the term claim expenses does not include salaries of any insured's or our regular employees or expenses incurred by any insured for first aid.

"Coverage territory" means all parts of the world if the insured's responsibility to pay damages is determined in a suit on the merits in the United States (including its territories and possessions), Puerto Rico or Canada or in a settlement we agree to.

"Damages" means monetary judgment, award or settlement, but does not include fines or penalties or damages for which insurance is prohibited by law applicable to the construction of this policy.

"Errors or Omission injury" means injury (other than "bodily injury, property damage", advertising injury", or "personal injury") that arises out of an insured's act, error or omission (or a related series of acts, errors or omissions) within the scope of your operations.

"Insured Contract" means:

- a) A lease of premises;
- b) A sidetrack agreement;
- c) An easement or license agreement in connection with vehicle or pedestrian private railroad crossings at grade;
- d) Any other easement agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

- e) An indemnification of a municipality as required by ordinance, except in connection with work for a municipality;
- f) An elevator maintenance agreement; or
- g) That part of any other contract or agreement pertaining to your business under which you assume the tort liability of another to pay damages because of bodily injury or property damage to a third person or organization, if the contract or agreement is made prior to the bodily injury or property damage. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

An insured contract does not include that part of any contract or agreement:

- a) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - 1) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change order, designs, or specifications; or
 - 2) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- b) Under which the insured, if an architect, engineer or surveyor, assumes liability for injury or damage arising out of the insured's rendering or failing to render professional services, including those listed in a. above and supervisory, inspection or engineering services; or
- c) That indemnifies any person or organization for damage by fire to premises rented or loaned to you.

"Loading or unloading" means the handling of property:

- a) After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or auto;
- b) While it is in or on an aircraft, watercraft or auto; or
- c) While it is being moved from an aircraft, watercraft or auto to the place where it is finally delivered;

but loading and unloading does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or auto.

"Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a) Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b) Vehicles maintained for use solely on or next to premises you own or rent;

Any land motor vehicle, trailer or semi-trailer designed for travel on public roads (including any machinery or apparatus that is attached) owned or leased by you shall be deemed an auto and not mobile equipment if the only reason for considering it mobile equipment is that it is maintained for use primarily or exclusively on streets or highways owned by you;

- c) Vehicles that travel on crawler treads;
- d) Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - 1) Power cranes, shovels, loaders, diggers or drills; or
 - 2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e) Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types;
 - 1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - 2) Cherry pickers and similar devices used to raise or lower workers;
- f) Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not mobile equipment but will be considered autos:

- 1) Equipment designed primarily for:
 - a) Snow removal
 - b) Road maintenance, but not construction or resurfacing;
 - c) Street cleaning;
- 2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- 3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

"Occurrence" means:

- a) An accident, including continuous or repeated exposure to substantially the same general conditions;
- b) With respect only to personal injury, an offense described in the definition of personal injury; or
- c) With respect only to advertising injury, an offense described in the definition of advertising injury;
- d) With respect only to "errors or omissions injury," an act, error or omission (or a related series of acts, errors, or omissions) in the conduct of your operations.

"Personal Injury" means injury (other than bodily injury) arising out of one or more of the following offenses:

- a) False arrest, detention or imprisonment;
- b) Malicious prosecution;
- c) Wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies;
- d) Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or

- e) Oral or written publication of material that violates a person's right of privacy.

"Products-completed operations hazard" includes all bodily injury and property damage occurring away from premises you own or rent and arising out of your product or your work except;

- a) Products that are still in your physical possession; or
- b) Work that has not yet been completed or abandoned.

Your work will be deemed completed at the earliest of the following times:

- a) When all of the work called for in your contract has been completed.
- b) When all of the work to be done at the site has been completed if your contract calls for work at more than one site.
- c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

This hazard does not include bodily injury or property damage arising out of:

- 1) The transportation of property, unless the injury or damage arising out of a condition in or on a vehicle created by the loading or unloading of it;
- 2) The existence of tools, uninstalled equipment or abandoned or unused materials;
- 3) Products or operations for which the classification in our manual of rules includes products or completed operations.

"Property damage" means:

- a) Physical injury to tangible property, including all resulting loss of use of that property; or

- b) Loss of use of tangible property that is not physically injured.

"Suit" means a civil proceeding in which damages because of bodily injury, property damage, personal injury or advertising injury, acts, errors, or omissions (or a first in a series of such offenses) to which this insurance applies are alleged. Suit includes an arbitration proceeding alleging such damages to which you must submit or submit with our consent.

"Your product" means:

- a) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - 1) You;
 - 2) Others trading under your name; or
 - 3) A person or organization whose business or assets you have acquired; and
- b) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

Your product includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in a. and b. above.

Your product does not include vending machines or other property rented to or located for the use of others but not sold.

"Your work" means:

- a) Work or operations performed by you or on your behalf; and
- b) Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in a. or b. above.

SECTION II - COVERAGE

A. Insuring Agreement

We will pay those sums that the insured becomes legally obligated to pay as damages because of:

- 1) bodily injury,
- 2) property damage,
- 3) personal injury, or
- 4) advertising injury,
- 5) errors or omissions

to which this policy applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under this insurance.

This insurance does not apply to "bodily injury;" "property damage;" "personal injury" or "advertising injury" offenses (or a first in a series of such offenses); acts, errors, or omissions (or a first in a series of offenses) which occurred before the retroactive date if any, shown in the Declarations, or which occurs after the policy period.

The bodily injury, property damage, personal injury or advertising injury, acts, errors, or omissions (or a first in a series of offenses) must be caused by an occurrence. The occurrence must take place in the coverage territory.

We will have the right and duty to defend any claim or suit seeking such damages, but:

- 1) The amount we will pay for damages is limited as described in SECTION VI - LIMITS OF LIABILITY
- 2) We may, at our discretion, investigate any occurrence and settle any claim or suit that may result; and
- 3) Our right and duty to defend end when we have used up the applicable limits of liability in the payment of judgments or settlements. This applies both to claims and suits pending at that time and those filed thereafter.

B. Exclusions

- 1) This insurance does not apply to bodily injury, property damage, personal injury or advertising injury, acts, errors, or omissions (or a first in a series of offenses) arising out of the operation, maintenance or use of any facility or operation designated in the Schedule of Included/ Excluded Operations as "excluded".
- 2) We have no obligation under this policy:
 - a) To investigate, settle or defend any claim or suit against any insured alleging actual or threatened injury or damage of any nature or kind to persons or property which arises out of or would not have occurred but for the pollution hazard; or
 - b) To pay any damages, judgments, settlements, loss, costs or expenses that may be awarded or incurred by reason of any such claim or suit or any such injury or damage, or in complying with any action authorized by law and relating to such injury or damage.

As used in this exclusion, pollution hazard means an actual exposure or threat of exposure to the corrosive, toxic or other harmful properties of any solid, liquid, gaseous, or thermal pollutants, contaminants, irritants or toxic substances, including smoke, vapors, soot, fumes, acids or alkalis, and waste materials consisting of or containing any of the foregoing.

This insurance does not apply to:

- 3) Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.
- 4) Any liability arising out of or in any way connected with the operation of the principles of eminent domain, condemnation proceedings or inverse condemnation, adverse possession or dedication by adverse use or by whatever name called, whether such liability accrues directly against any insured or by virtue of any agreement entered into by or on behalf of any insured.
- 5) Liability arising out of the rendering of or failure to render professional medical, nursing, dental or paramedical services.

- 6) Liability arising out of unfair competition or violation of anti-trust laws.
- 7) Liability arising out of infringement of copyright, title, slogan, patent, trademark, trade dress, trade name, service mark, or service name.
- 8) Damages claimed for any loss, cost or expense incurred by any insured or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:
 - a) your product, or
 - b) your workif such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.
- 9) Bodily injury, property damage, personal injury or advertising injury, acts, errors or omissions (or a first in a series of offenses) expected or intended from the standpoint of any insured. This exclusion does not apply to bodily injury resulting from the use of reasonable force to protect persons or property.
- 10) Bodily injury, property damage, personal injury or advertising injury, acts, errors or omissions (or a first in a series of offenses) sustained by any person and caused by demotion, dismissal, failure to promote, or otherwise arising out of employment or prospective employment of any person by any insured.
- 11) Bodily injury, property damage, personal injury or advertising injury, acts, errors or omissions (or a first in a series of offenses) caused by any dishonest, fraudulent, criminal or malicious act or omission of any insured.
- 12) Bodily injury or property damage
 - a) For which any insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:
 - (1) Assumed in a contract or agreement that is an insured contract, or

- (2) That the insured would have in the absence of the contract or agreement.
- b) For which any insured may be held liable by reason of:
 - (1) Causing or contributing to the intoxication of any person;
 - (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
 - (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if either you or the insured are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

- c) Arising out of the ownership, maintenance, use of entrustment to others of any aircraft, auto or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and loading or unloading. This exclusion does not apply to:
 - (1) A watercraft while ashore on premises you own or rent;
 - (2) A watercraft you do not own that is:
 - (a) less than 26 feet long; and
 - (b) not being used to carry persons or property for a charge;
 - (3) Parking an auto on, or on the ways next to premises you own or rent, provided the auto is not owned by or rented or loaned to you or the insured;
 - (4) Liability assumed under any insured contract for the ownership, maintenance or use of aircraft or watercraft;

- (5) Bodily injury or property damage arising out of the operation of any of the equipment listed in paragraph f.(2) or f.(3) of the definition of mobile equipment.
 - d) Arising out of:
 - (1) The transportation of mobile equipment by an auto owned or operated by or rented or loaned to any insured; or
 - (2) The use of mobile equipment in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.
 - e) Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.
- 13) Bodily injury to:
- (1) An employee of any insured arising out of or in the course of employment by any insured; or
 - (2) The spouse, child, parent, brother or sister of that employee as consequence of (1) above.
- This exclusion applies:
- (1) Whether the insured may be liable as an employer or in any other capacity; and
 - (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.
- This exclusion does not apply to liability you assume under an insured contract.
- 14) Property damage to:
- (1) Property any insured owns, rents or occupies;
 - (2) Premises any insured sells, gives away or abandons, if the property damage arises out of any part of those premises;

- (3) Property loaned to any insured;
- (4) Personal property in the care, custody or control of any insured, (except property of an inmate of a jail, penal institution or correctional center up to \$2,500 per inmate);
- (5) That particular part of real property on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations, if the property damage arises out of those operations; or
- (6) That particular part any property that must be restored, repaired or replaced because your work was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are your work and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion does not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to property damage included in the products-completed operations hazard.

15) Property Damage to:

- a) Your product arising out of it or any part of it.
- b) Your work arising out of it or any part of it and included in the products-completed operations hazard.

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

- c) Property that has not been physically injured, arising out of:
 - (1) A defect, deficiency, inadequacy or dangerous condition in your product or your work; or

- (2) A delay or failure by any insured or anyone acting on any insured's behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to loss of use of other property arising out of sudden and accidental physical injury to your product or your work after it has been put to its intended use.

16) Personal injury or advertising injury:

- a) Arising out of oral or written publication of material, if done by or at the direction of any insured with knowledge of its falsity;
- b) Arising out of oral or written publication of material whose first publication took place "before the retroactive date";
- c) Arising out of the willful knowledge or violation of a penal statute or ordinance committed by or with the knowledge or consent of any insured; or
- d) For which any insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

17) Advertising injury arising out of:

- a) Breach of contract, other than misappropriation of advertising ideas under an implied contract;
- b) The failure of goods, products or services to conform with advertised quality or performance;
- c) The wrong description for the price of goods, products or services; or
- d) An offense committed by an insured whose business is advertising, broadcasting, publishing or telecasting.

18) Errors or omission injury:

- a) Arising out of any insured's activities in a fiduciary capacity or as a trustee or in any similar capacity;

- b) Arising out of any insured's advertising activities;
- c) Arising out of the operation of:
 - 1) Schools
 - 2) Airports
 - 3) Hospitals or health care facilities
 - 4) Gas & Electric facilities
- d) Arising out of:
 - 1) Any insured obtaining remuneration of financial gain to which insured was not legally entitled, or
 - 2) the willful violation of a penal statute or ordinance committed by or with knowledge or consent of any insured but only as respects such insured.
- e) That results in property damage or disappearance of any tangible property (including money).
- f) Arising out of law enforcement activities.
- g) Arising from failure to purchase or maintain insurance coverage.
- h) Based on contractual penalties or reainages, breach of contract, or cost estimate overruns on any contract or project.
- i) Resulting in a "claim" or suit for "damages" for the refund of taxes, assessments, fees or charges as a result of an improper or illegal levy, tax, imposition, assessment or valuation of property.
- j) Resulting from discrimination or violation of civil rights.

SECTION III - APPLICATION OF POLICY

Your policy applies to bodily injury, property damage, personal injury or advertising injury, acts, errors, or omissions (or a first in a series of offenses) only if a claim for damages because of the bodily injury, property damage, personal injury or advertising injury, acts, errors or omissions (or a first in a series of offenses) is first made against any insured during the policy period, provided you, at the time you applied for this coverage had no knowledge of any claim or suit or any occurrence which might reasonably be expected to result in a claim or suit.

- a) A claim by a person or organization seeking damages will be deemed to have been made when notice of such claim is received and recorded by any insured or by us, whichever comes first.
- b) All claims for damages because of bodily injury to the same person, including damages claimed by any person or organization for care, loss of services, or death resulting at any time from the bodily injury will be deemed to have been made at the time the first of those claims is made against any insured
- c) All claims for damages because of property damage causing loss to the same person or organization as a result of an occurrence will be deemed to have been made at the time the first of those claims is made against any insured.
- d) All claims for damages because of personal injury to the same person or organization as a result of an occurrence will be deemed to have been made at the time the first of those claims is made against any insured.
- e) All claims for damages because of advertising injury to the same person or organization as a result of an occurrence will be deemed to have been made at the time the first of those claims is made against any insured.
- f) All claims for damages because of errors or omissions injury as a result of an occurrence will be deemed to have been made at the time the first of those claims is made against any insured.
- g) All claims for damages because of employee benefit injury as a result of an occurrence will be deemed to have been made at the time the first of those claims is made against any insured.

SECTION IV - WHO IS AN INSURED

Each of the following is an insured:

- a) You;
- b) Any commission, board, authority, administrative department or other similar unit operated by and under your jurisdiction;
- c) Your employees and authorized volunteers, other than licensed medical, nursing, dental or paramedical personnel;
- d) Any duly elected or appointed officials and members of your governing body; and
- e) Any person or organization to whom you are obligated by virtue of a written or oral contract to provide insurance such as is afforded by this policy; but only with respect to operations for you or to facilities you own, rent or use.

The persons or organizations described above are insureds only while acting within the scope of their duties with respect to a facility or operation that is designated in the Schedule of Included/Excluded Operations as "included"

SECTION V - SUPPLEMENTARY PAYMENTS

A) General Expenses

We will pay, with respect to any claim or suit we defend:

- 1) All claim expenses.
- 2) Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which this insurance applies. We do not have to furnish these bonds.
- 3) The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- 4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or suit, including actual loss of earnings up to \$100 a day because of time off from work.

- 5) All costs taxed against the insured in the suit.
- 6) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of liability.

B) Medical Expenses

We will also pay:

- 1) Medical expenses as described below for bodily injury caused by an accident;
 - a) On premises you own or rent;
 - b) On ways next to premises you own or rent; or
 - c) Because of your operations;provided that:
 - a) The accident takes place in the coverage territory and during the policy period;
 - b) The expenses are incurred and reported to us within one year of the date of the accident; and
 - c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- 2) We will make these payments regardless of fault up to a maximum amount of \$5,000 per person, \$10,000 per accident. We will pay reasonable expense for:
 - a) First aid at the time of an accident;
 - b) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
 - c) Necessary ambulance, hospital, professional nursing and funeral services.

C. Exclusions

We will not pay expenses for bodily injury:

- 1) To any insured.
- 2) To a person hired to work for or on behalf of any insured or a tenant of any insured.
- 3) To any inmate, patient or prisoner who is being treated, cared for, detailed or imprisoned in any of your facilities.
- 4) To a person injured on that part of premises you own or rent that the person normally occupies.
- 5) To a person, whether or not an employee of any insured, if benefits for the bodily injury are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- 6) To a person injured while taking part in athletics.
- 7) Included within the products-completed operations hazard.
- 8) Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

SECTION VI – LIMITS OF LIABILITY

- 1) The limits of Liability shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a) Insureds:
 - b) Claims made or suits brought; or
 - c) Persons or organizations making claims or bringing suits.
- 2) The General Aggregate Limit is the most we will pay for all damages because of:
 - a) Bodily injury and property damage except for bodily injury and property damage included in the products-completed operations hazard; and
 - b) Personal injury and advertising injury.
- 3) The Products-Completed Operations Aggregate Limit is the most we will pay for all damages because of injury or damage included in the products-completed operations hazard.

- 4) The Errors or Omissions injury Aggregate Limit is the most we will pay for all damages because of errors or omission hazard.
- 5) Subject to 2) above, the Personal Injury and Advertising Injury Limit is the most we will pay for damages because of all personal injury and all advertising injury sustained by any one person or organization.
- 6) Subject to 2) and 3) above, whichever applies, the Bodily Injury and Property Damage Limit is the most we will pay for damages because of all bodily injury (including damages for care or loss of services resulting from bodily injury) and property damage arising out of one occurrence. All bodily injury and property damage arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one occurrence.
- 7) Subject to 4) above, the Errors or Omissions Injury – Each Incident Limit is the most we will pay for damages because of all errors or omissions injury arising out of any one occurrence.

SECTION VII – EXTENDED REPORTING PERIOD OPTION

Upon termination of this insurance by you or by cancellation or non-renewal by us for any reason other than non-payment of premium, you may elect to have an endorsement issued providing for an extended reporting period of three years following the effective date of termination or expiration of this policy.

A claim first made during the Extended Reporting Period will be deemed to have been made on the last day of the policy period, provided that the claim is for damages and/or personal injury or advertising injury offenses (or first in a related series of such offenses), acts, errors, or omissions (or the first in a related series of acts, errors, or omissions) which occurred because of bodily injury or property damage before the end of the policy period, but not before the Retroactive Date, if any, shown in the Declarations.

The Extended Reporting Period will not reinstate or increase the limits of liability or extend the policy period.

We will issue the Extended Reporting Period Endorsement only if:

- a) you request it in writing within 60 days after the end of the policy period; and
- b) you promptly pay the additional premium when due, as may be required by our Rules, Rates and Rating Plans then in effect.

The Extended Reporting Period Endorsement will not take effect unless the additional premium is paid when due. If that premium is paid when due, the endorsement may not be cancelled.

SECTION VII - CONDITIONS

1) Premiums

The Named Insured shown in the Declarations:

- a) Is responsible for the payment of all premiums; and
- b) Will be the payee for any return premiums we pay.

2) Inspections and Surveys

We have the right but are not obligated to:

- a) Make inspections and surveys at any time;
- b) Give you reports on the conditions we find; and
- c) Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

- a) Are safe or healthful; or
- b) Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory rate service or similar organization which make insurance inspections, surveys, reports or recommendations.

3) Examination of Your Books and Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

4) Duties in the Event of Occurrence, Claim or Suit

a) You must see to it that we are notified as soon as practicable of an occurrence, offense, act, error, or omission which may result in a claim. Notice should include:

- 1) How, when and where the occurrence took place;
- 2) The names and addresses of any injured persons and witnesses; and
- 3) The nature and location of any injury or damage arising out of the occurrence.

Notice of any occurrence is not notice of a claim.

b) If a claim is received by any insured, you must:

- 1) Immediately record the specifics of the claim and the date received; and
- 2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim as soon as practicable.

c) You and any other involved insured must:

- 1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with claim or suit;
- 2) Authorize us to obtain records and other information;
- 3) Cooperate with us in the investigation, settlement or defense of the claim or suit; and

- 4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to any insured because injury or damage to which this insurance may also apply.
- d) No insured will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

5) **Legal Action Against Us**

No person or organization has a right under this policy:

- a) To join us as a party or otherwise bring us into a suit asking for damages from any insured; or
- b) To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after actual trial; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable limit of liability. An agreed settlement means a settlement and release of liability signed by us, the insured and either the claimant or the claimant's legal representative.

6. **Transfer of Rights of Recovery Against Others to Us**

If any insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. Any insured must do nothing after loss to impair them. At our request, any insured will bring suit or transfer those rights to us and help us enforce them.

7. **Changes**

This policy contains all the agreements between you and us concerning the insurance afforded. Notice to any of our agents or knowledge possessed by any such agent or any other person shall not act as a waiver or a change in any part of this policy.

None of the provision of this policy shall be waived, changed or modified except by written endorsement issued to form a part of this policy.

8. Transfer of Your Rights and Duties Under this Policy

No rights or duties under this policy may be transferred without our written consent except in the case of death of an individual insured.

If any insured dies, that insured's rights and duties will be transferred to that insured's legal representative but only while acting within the scope of duties as that insured's legal representative. Until the legal representative is appointed, anyone having proper temporary custody of that insured's property will have that insured's rights and duties but only with respect to that property.

9. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy.

10. Other Insurance

If other valid and collectible insurance is available to any insured for a loss we cover under this policy, our obligations are limited as follows:

a) Primary insurance

This insurance is primary insurance, except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. below.

b) Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

1) That is effective prior to the beginning of the policy period shown in the Declarations of this insurance applies to bodily injury, property damage, personal injury or advertising injury, acts, errors or omissions (or a first in a series of offenses) on other than a claims made basis, if:

a) No Retroactive Date is shown in the Declarations of this insurance; or

- b) The other insurance has a policy period which continues after the Retroactive Date shown in the Declarations of this insurance;
- 2) That is Fire, Extended Coverage, Builders Risk, Installation Risk or similar coverage for your work;
- 3) That is Fire Insurance for premises rented to you; or
- 4) If the loss arises out of the maintenance or use of aircraft, autos or watercraft to the extent not subject to Exclusion 14.c.

When this insurance is excess, we will have no duty under this policy to defend any claim or suit that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to any insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- 1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- 2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this policy.

c) Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

11. Cancellation

- a) The Named Insured shown in the Declarations may cancel this policy by mailing; or delivering to us advance written notice of cancellation.
- b) We may cancel this policy by mailing or delivering to the Named Insured written notice of cancellation at least:
 - 1) 10 days before the effective date of cancellation if we cancel for non-payment of premium; or
 - 2) 60 days before the effective date of cancellation if we cancel for any other reason.
- c) We will mail or deliver our notice to the Named Insured's last mailing address known to us.
- d) Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- e) If this policy is cancelled, we will send the Named Insured any premium refund due. If we cancel, the refund will be pro-rata. If the Named Insured cancels, the refund may be less than pro-rata. The cancellation will be effective even if we have not made or offered a refund.
- f) If notice is mailed, proof of mailing will be sufficient proof of notice.

12) Representations

By accepting this policy, you agree:

- a) The statements in the Declarations are accurate and complete;
- b) Those statements are based upon representations you made to us; and
- c) We have issued this policy in reliance upon your representations.

SCHEDULE OF INCLUDED/EXCLUDED OPERATIONS

Coverage		
Included	Excluded	
_____	<u>Excluded</u>	Airport
_____	<u>Excluded</u>	Amusement Parks
_____	<u>Excluded</u>	Dams, Lakes, Reservoirs
_____	<u>Excluded</u>	Electric Utility System
_____	<u>Excluded</u>	Gas Department or Gas Utility System
<u>Included</u>	_____	Golf Courses
_____	<u>Excluded</u>	Hospitals and Nursing Homes
_____	<u>Excluded</u>	Housing Authority and Housing Projects
_____	<u>Excluded</u>	Landfills
<u>Included</u>	_____	Law Enforcement Activities (Bodily Injury and Property Damage Coverage Only)
<u>Included</u>	_____	Law Enforcement Activities (Personal Injury Coverage Only)
<u>Included</u>	_____	Penal Institutions, Jails, Correctional Facilities
_____	<u>Excluded</u>	Schools and Colleges
_____	<u>Excluded</u>	Ski Facilities and Skiing Activities
<u>Included</u>	_____	Street, Roads, Highways or Bridges (including signs, meters, signals, etc.)
_____	<u>Excluded</u>	Transportation Systems
_____	<u>Excluded</u>	Water and Sewer Companies
_____	<u>Excluded</u>	Wharves, Piers, Docks, Marinas and Watercraft
_____	<u>Excluded</u>	Zoos

Policy #GL
Effective: September 1, 1989

Endorsement #001
Named Insured:

This Endorsement Changes the Policy
Please Read it Carefully

This endorsement modifies insurance provided under the PUBLIC
ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

The medical payment coverage of the above mentioned policy is
hearby amended to the following limits:

\$250 Per Person
\$500 Per Occurrence

Countersigned by:

Daniel & Henry Co.

Premium: None

Date

Endorsement Effective: September 1, 1992

**This Endorsement Changes the Policy.
Please Read it Carefully.**

Definition of Insured Contract

**This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE**

Subsection d of "Insured Contracts" in Section I - Definitions is hereby repealed and a new subsection is enacted to read as follows:

Any other easement agreement, except in connection with construction or demolition operations on a railroad.

Endorsement "A"

This Endorsement Changes The Policy.
Please Read It Carefully.

AMENDMENT OF SECTION IV - WHO IS AN INSURED

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

It is agreed that subsection C. of SECTION IV - WHO IS AN INSURED
is replaced by the following:

- C. Your employees and authorized volunteers, other than licensed medical, nursing, dental or paramedical personnel, but only for acts within the scope of their employment or as authorized by you. However, none of these employees or authorized volunteers is an insured for:
- 1) Bodily injury or personal injury to a co-employee or to a volunteer while in the course of his or her employment or while acting on your behalf;
 - 2) Bodily injury or personal injury arising out of personally providing or failing to provide professional health care service; or
 - 3) Property damage to property owned or occupied by or rented or loaned to that employee, that volunteer or any of your other employees or volunteers.

Endorsement "B"

This Endorsement Changes the Policy.
Please Read It Carefully.

FIRE DAMAGE LEGAL LIABILITY

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

In return for the payment of the premium when due and subject to all the terms of the policy, except as modified with respect to the insurance afforded by this endorsement, we agree with you as follows:

SCHEDULE

Description of Property	Limit of Liability	Rate (Per \$100 of Limit)	Premium \$Included
ALL REAL PROPERTY			

\$50,000 each occurrence

We will pay on behalf of the insured all sums the insured shall become legally obligated to pay as damages because of property damage arising out of fire to structure or portions thereof including permanently attached fixtures, retined to or occupied by any insured and described in the Schedule of this endorsement, subject to the following conditions:

The limit of liability stated in the Schedule of this endorsement applies separately to the insurance afforded by this endorsement and is in lieu of and not in addition to any other limit of liability stated in the policy, but is subject to the All Coverages Aggregate Limit stated in the policy Declarations.

None of the exclusions of the policy applying to property damage, other than the Nuclear Energy Liability Exclusion (Broad Form), apply to the property damage coverage afforded by this endorsement and in lieu thereof the following exclusion applies:

This insurance does not apply to property damage for which any insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages;

- 1) Assumed in a contract or agreement that is an insured contract, or
- 2) That the insured would have in the absence of the contract or agreement.

Endorsement "C"

This Endorsement Changes the Policy.
Please Read It Carefully.

PERSONAL INJURY COVERAGE -
LAW ENFORCEMENT OPERATIONS

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

With respect only to coverage for your Law Enforcement Operations,
the definition of personal injury is amended to read:

"Personal Injury" means injury (other than bodily injury) arising
out of one or more of the following offenses in the conduct of your
law enforcement operations:

- 1) false arrest, detention or imprisonment;
- 2) malicious prosecution;
- 3) wrongful entry, eviction or other invasion of the right of
private occupancy;
- 4) humiliation;
- 5) the publication of utterance of a libel, slander or other
defamatory or disparaging material, or publication or
utterance in violation of an individual's right of privacy;
- 6) false arrest or improper service of process;
- 7) violation of property rights.

Endorsement "D"

This Endorsement Changes The Policy.
Please Read it Carefully.

DEDUCTIBLE LIABILITY INSURANCE

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

SCHEDULE

Coverage	Amount and Basis of Deductible
1) Bodily Injury and Property Damage	\$ 500 each occurrence
2) Personal Injury and Advertising Injury	\$ 500 each occurrence
3) Law Enforcement Liability	\$2,500 each occurrence

- 1) Our obligation to pay damages on behalf of the insured because of damages sustained by one or more persons or organizations as a result of any one occurrence, applies only to the amount of damages payable for each coverage shown in the Schedule of this endorsement which is in excess of the deductible stated in the Schedule for each such coverage.
- 2) We may pay any part or all of the deductible amount to effect settlement of any claim and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.
- 3) The terms of the policy of which this endorsement forms a part including those with respect to (a) our rights and duty to defend any claim or suit seeking such damages, and (b) your duties in the event of an occurrence, claim or suit, apply regardless of the application of the deductible amount.

Endorsement "E"

This Endorsement Changes The Policy.
Please Read It Carefully.

WAIVER OF GOVERNMENTAL IMMUNITY

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

We will waive, both in the adjustment of claims and in the defense of suits against any insured, any governmental immunity of the insured, unless the insured requests in writing that we not do so.

Waiver of immunity as a defense will not subject us to liability for any portion of a claim or judgment in excess of the applicable limit of liability.

Endorsement "F"

This Endorsement Changes The Policy.
Please Read It Carefully.

LIMITATION OF LIMIT OF LIABILITY

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

In the event that more than one coverage applies to the same claim or suit brought against any insured, our total liability for all damages with respect to such claim or suit shall not exceed the highest limit of liability under any such coverages.

Endorsement "G"

This Endorsement Changes The Policy.
Please Read It Carefully.

MOTOR VEHICLE LAWS - MOBILE EQUIPMENT

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

It is agreed that with respect to mobile equipment to which your policy applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverages required by any motor vehicle insurance law. We will provide the required limits for those coverages.

Exdorsement "H"

**This Endorsement Changes The Policy.
Please Read It Carefully.**

EXCLUSION - CLASS ACTION SUITS

**This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE**

We have no obligation under this policy to investigate, defend or pay any damages, judgments, loss, costs or expenses that may be awarded in a class action suit against any insured because of bodily injury, property damage, personal injury, advertising injury, error or omissions injury or employee benefit injury sustained by any person in connection with the employment or prospective employment of any person by any insured.

Endorsement "I"

This Endorsement Changes The Policy.
Please Read It Carefully

EXCLUSION - ENGINEERS, ARCHITECTS OR SURVEYORS
PROFESSIONAL LIABILITY

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

The policy of which this endorsement forms a part does not apply to bodily injury, property damage, personal injury, errors or omissions injury or advertising injury arising out of the rendering or failure to render any professional services by or for you, including:

- 1) The preparing, approving, or failure to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; and
- 2) Supervisory, inspection or engineering services.

Endorsement "J"

This Endorsement Changes The Policy.
Please Read It Carefully.

EXCLUSION - INJURY TO VOLUNTEER FIREMEN

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

This insurance does not apply to bodily injury or personal injury
to any volunteer firemen while in the course of their duties as
such, whether or not members of your organization.

Endorsement "K"

This Endorsement Changes The Policy.
Please Read It Carefully.

EXCLUSION - LAWYER'S PROFESSIONAL LIABILITY

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

This insurance afforded by the policy of which this endorsement forms a part does not apply to personal injury or errors or omissions injury arising out of an insured's rendering of or failure to render professional services in his/her capacity as a lawyer, to or on behalf of any person or organization with respect to any matters not related to your covered operations or facilities.

Endorsement "L"

This Endorsement Changes The Policy.
Please Read It Carefully.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT
(BROAD FORM)

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

- 1) The insurance does not apply:
 - a) Under any Liability Coverage, to bodily injury or property damage:
 - 1) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - 2) Resulting from the hazards property of nuclear material and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
 - b) Under any Medical Payments Coverage, to expenses incurred with respect to bodily injury resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.
 - c) Under any Liability Coverage to bodily injury or property damage resulting from the hazardous properties of nuclear material, if:
 - 1) The nuclear material (a) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (b) has been discharged or dispersed therefrom;

- 2) The nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of any insured; or
- 3) The bodily injury or property damage arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to property damage to such nuclear facility and any property thereat.

2) As used in this endorsement:

"hazard properties" include radioactive, toxic or explosive properties;

"nuclear material" means source material, special nuclear material or by-product material;

"source material", "special nuclear material" and "by-product material" have the meanings given in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

"waste" means any waste material (a) containing by-product material other than the tailings or wastes produced by the extraction or concentration of uranium or thorium for any ore processed primarily for its source material content, and (b) resulting from the operation by any person or organization of any nuclear facility included under the first two paragraphs of the definition of nuclear facility.

"nuclear facility" means

- a) Any nuclear reactor
- b) Any equipment or device designated or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel or (3) handling, processing, or packaging waste,

- c) Any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste;

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"property damage" includes all forms of radioactive contamination of property.

Endorsement "M"

This Endorsement Changes the Policy.
Please Read It Carefully.

EMERGENCY MEDICAL TREATMENT COVERAGE

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

Premium _____

We agree with you:

- 1) For payment of an additional premium, the definition of bodily injury is amended to include injury arising out of the rendering of or failure to render emergency medical treatment by any person (other than a physician, dentist or nurse employed by you to provide such services) including any professional volunteer designated herein and who provides these services on your behalf, subject to the following provisions:
 - a) Exclusion 5. does not apply.
 - b) The insurance afforded by this endorsement to each such person does not apply to bodily injury to another of your employees or volunteers arising out of and in the course of his or her duties for (1) you or (2) if the named insured is a partnership or joint venture, any partner or member thereof.
- 2) As used herein, "professional volunteer" means any person who is a licensed or certified nurse, emergency medical technician or paramedic, and performs medical or paramedical services without a charge, for or at your direction.

Designated Professional Volunteers

Emergency Medical Technicians and Paramedics per schedule on file

ENDORSEMENT "H"
 EFFECTIVE DATE: MARCH 1, 1989

COVERAGE	LIMITS OF LIABILITY				DEDUCTIBLE	
EMPLOYEE BENEFITS LIABILITY INSURANCE	\$ 1,000,000	EACH CLAIM	\$ 1,000,000	AGGREGATE	\$ 1,000	EACH CLAIM
ESTIMATED NUMBER OF EMPLOYEES	RETRO DATE				PREMIUM	
131	3/1/89				\$ Incl.	

In consideration of the payment of the premium, this Company agrees with the Insured named in the Declarations to afford the coverage set forth herein and on pages 2 and 3. The other terms, conditions and limits of liability in other sections of the policy to which this endorsement is attached shall not apply to insurance afforded hereunder.

INSURING AGREEMENTS

1. Employee Benefits Liability:

This Company will pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as damages because of any claim made against the Insured due to any negligent act, error or omission of the Insured, or any other person for whose acts the Insured is legally liable, in the administration of the Insured's Employee Benefits programs, as defined herein, and this Company shall have the right and duty to defend any suit against the Insured seeking damages on account of such negligent act, error or omission, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient; but this Company shall not be obligated to defend any suit after the applicable limit of this Company's liability has been exhausted by payment of judgements or settlements.

2. Supplementary Payments: This Company will pay, in addition to the applicable limits of liability:

- all expenses incurred by this Company, all costs taxed against the Insured in any suit defended by this Company and all interest on the entire amount of any judgment therein which accrues after the entry of judgment and before this Company has paid or tendered or deposited in court that part of the judgment which does not exceed the limit of this Company's liability thereon;
- premiums on appeal bonds required in any such suit and premiums on bonds to release attachments for an amount not in excess of the applicable limit of liability of this policy, but without any obligation to apply or furnish any such bonds;
- reasonable expenses incurred by the Insured at this Company's request including actual loss of wages or salary (but not loss of other income) not to exceed \$25 per day because of his attendance at hearings or trials at such request.

DEFINITIONS

1. Definition of "Insured": With respect to the insurance afforded by this endorsement the unqualified word "Insured" includes the Named Insured; provided that (a) if the Named Insured is designated as an individual, the insurance applies only to the conduct of a business of which he is the sole proprietor and (b) the unqualified word "Insured" also includes the following:
 - (i) if the Named Insured is or includes a partnership or joint venture, any partner or member thereof but only with respect to his liability as such;
 - (ii) any executive officer, director or stockholder of the Named Insured while acting within the scope of his duties as such;
 - (iii) any full-time, salaried employee, provided such employee is authorized to act in the administration of the Named Insured's Employee Benefits Programs.
2. "Employee Benefits Programs": The term "Employee Benefits Programs" means (a) group life insurance, group accident or health insurance, profit sharing plans, pension plans, employee stock subscription plans, workmen's compensation, unemployment insurance, social security benefits, disability benefits, and (b) any other similar employee benefits instituted after the effective date of this endorsement, provided this Company is notified within thirty days after the institution of such benefits.
3. "Administration": The unqualified word "administration" whenever used shall mean:
 - (a) Interpreting the Employee Benefits Programs;
 - (b) Handling of records in connection with the Employee Benefits Programs;
 - (c) Effective enrollment, termination or cancellation of employees under the Employee Benefits Programs; provided all such acts are authorized by the Named Insured.

EXCLUSIONS

1. This endorsement does not apply to:
 - (a) any claim based upon or attributable to any dishonest, fraudulent, criminal or malicious act, libel, slander, discrimination, or humiliation;
 - (b) bodily injury to or sickness, disease or death, of any person, or to injury to any tangible property, including the loss of use thereof;
 - (c) any claim for failure of performance of contract by an insurer;
 - (d) any claim based upon the Insured's failure to comply with any law concerning workmen's compensation, unemployment insurance, social security or disability benefits;
 - (e) any claim based upon:
 - (i) advice given by an Insured to an employee to participate or not to participate in any Employee Benefit Plans;
 - (ii) the appointment of, or the failure to appoint, any investment manager, administrator, trustee, actuary, advisor, counsel, accountant, custodian, or consultant;
 - (iii) any investment activity, including but not limited to, the management, administration or disposition of assets of any Employee Benefit Program.
2. This endorsement does not provide coverage for any claim to the extent that recovery could not have been attained upon such claim in an action at law prior to the effective date of the Employee Retirement Income Security Act of 1974 (ERISA).

CONDITIONS

1. Application of this Endorsement: This endorsement applies to damages which occur within the United States of America, its territories or possessions or Canada provided claim or suit is brought against the Insured during the endorsement period, and the Insured at the effective date of this endorsement had no knowledge or could not have reasonably foreseen any circumstances which might result in a claim or suit.
2. Limits of Liability: Regardless of the number of (a) Insureds under this policy (b) persons who sustain damage, or (c) claims made or suits brought for such damage; the limit of liability stated in the Additional Declarations as applicable to "each sum" is the limit of this Company's liability for all damages incurred on account of any claim covered hereunder; the limit of liability stated in the Additional Declarations as "aggregate" is, subject to the above

provision respecting each claim, the total limit of this Company's liability for all claims covered hereunder and occurring during each annual period this endorsement is in force.

3. **Premium:** The premium stated in the Additional Declarations is an estimated premium only. Upon termination of each annual period of this endorsement the Insured, on request, will furnish this Company a statement of the total number of employees at the end of the period and the earned premium shall be computed on the average of the number of employees at the beginning and the end of such period in accordance with the rates specified in the Additional Declarations. If the earned premium thus computed exceeds the estimated premium paid, the Insured shall pay the excess to this Company; if less, this Company shall return to the Insured the unearned portion paid by such Insured:
4. **Insured's Duties in the Event of Occurrence, Claim or Suit:**
 - (a) In the event of an occurrence which may result in a claim, written notice containing particulars sufficient to identify the Insured and also reasonably obtainable information with respect to the time, place and circumstances thereof, shall be given by or for the Insured to this Company or any of its authorized agents as soon as practicable.
 - (b) If claim is made or suit is brought against the Insured, the Insured shall immediately forward to this Company every demand, notice, summons or other process received by him or his representative.
 - (c) The Insured shall cooperate with this Company and, upon this Company's request, shall attend hearings and trials, assist in making settlements, in the conduct of suits, in securing and giving evidence and obtaining the attendance of witnesses. The Insured shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense.
5. **Deductible:** The deductible amount indicated in the Additional Declarations shall be subtracted from the total amount of all sums which this Company is obligated to pay or incur on behalf of the Insured on account of each claim. This Company shall be liable only for the difference between such deductible amount and the limit of this Company's liability for each claim as stated in the Additional Declarations. The terms of this endorsement including those with respect to notice of claim or suit and this Company's right to investigate and negotiate any such claim or suit, apply irrespective of the application of the deductible amount.
6. **Action Against Company:** No action shall lie against this Company, unless as a condition precedent thereto, the Insured shall have fully complied with all of the terms of this endorsement, nor until the amount of the Insured's obligation to pay shall have been finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured, the claimant and the Company.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this endorsement to the extent of the insurance afforded by this endorsement. No person or organization shall have any right under this endorsement to join this Company as a party to any action against the Insured to determine the Insured's liability, nor shall this Company be impleaded by the Insured or his legal representative. Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve this Company of any of its obligations hereunder.
7. **Subrogation:** In the event of any payment under this endorsement, this Company shall be subrogated to all the Insured's rights of recovery therefor against any person or organization and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing after loss to prejudice such rights.
8. **Changes:** Notice to any agent or knowledge possessed by an agent or by another person shall not affect a waiver or a change in any part of this endorsement or estop this Company from asserting any right under the terms of this endorsement; nor shall the terms stated herein be waived or changed, except by endorsement issued to effect such change.
9. **Assignment:** Assignment of interest under this endorsement shall not bind this Company until its consent is endorsed hereon; if, however, the Named Insured shall die, this endorsement shall cover the Named Insured's legal representative as Named Insured; provided that notice of cancellation addressed to the Insured named in the Additional Declarations and mailed to the address shown in this endorsement shall be sufficient notice to effect cancellation of this endorsement.

10. Other Insurance: If the Insured has other insurance against a loss covered by this endorsement, this Company shall not be liable under this endorsement for a greater proportion of such loss than the limit of liability stated in the Additional Declarations bears to the total limit of liability of all valid and collectible insurance against such loss. However, with respect to negligent acts, errors or omissions which occur prior to the effective date of this endorsement, the insurance hereunder shall apply only as excess insurance over any other valid and collectible insurance and shall then apply only in the amount by which the applicable limit of liability of this endorsement exceeds the sum of the applicable limits of liability of all such other insurance.
11. Additional Declarations: By acceptance of this endorsement the Insured agrees that the statements in the Additional Declarations are his agreements and representations, that this endorsement is issued in reliance upon the truth of such representations and that this endorsement embodies all agreements existing between himself and this Company or any of its agents relating to this insurance.
12. Conformity with Statute: Terms of this endorsement which are in conflict with the statutes of the State wherein this endorsement is issued are hereby amended to conform to such statutes.
13. Cancellation: This endorsement may be cancelled by the Named Insured by surrender thereof to this Company or any of its authorized agents or by mailing to this Company written notice stating when thereafter the cancellation shall be effective. This endorsement may be cancelled by this Company by mailing to the Named Insured at the address shown in the Additional Declarations written notice stating when not less than ten days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of the surrender or the effective date and hour of cancellation stated in the notice shall become the end of the endorsement period. Delivery of such written notice either by the Named Insured or by this Company shall be equivalent to mailing.

Authorized Representative

Date

Endorsement O

Endorsement Effective: November 1, 1993

**This Endorsement Changes the Policy.
Please Read it Carefully.**

Policy Subject to Governmental Immunity

**This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE**

Endorsement O is hereby repealed, and a new Endorsement O is enacted to read as follows:

Notwithstanding any other provision, it is expressly agreed that our liability under this policy is limited to only those claims against insureds for which there is no governmental immunity pursuant to the laws of the State of Missouri.

In the event we deny liability because of governmental immunity on any otherwise covered claim, we will remain obligated to defend the claim, including the assertion of the governmental immunity defense, and will be subject to liability, up to the applicable limit, for any portion of the claim or judgment for which governmental immunity does not apply.

Passed by the Board of Directors of the
Property and Casualty Trust of St. Louis
August 24, 1993.



Martin J. Corcoran, President

Endorsement "P"

This Endorsement Changes The Policy.
Please Read It Carefully.

EXCLUSION - ASBESTOS RELATED CLAIMS

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

"Bodily Injury" or "Property Damage" arising out of or resulting
from Asbestos.

The company shall not have any duty to defend any "suit" against
the insured seeking damages on account of any just injury.

Endorsement "Q"

This Endorsement Changes The Policy.
Please Read It Carefully.

EXCLUSION - CHILD MOLESTATION

This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE

"Bodily Injury" or "Property Damage" sustained by any person
arising out of or resulting from the molesting of minors by:

- 1) Any Insured;
- 2) Any employee of any Insured; or
- 3) Any person performing volunteer services for or on behalf
of any insured.

The company shall not have any duty to defend any "suit" against
the insured seeking damages on account of any such injury.

ENDORSEMENT R

**This Endorsement Changes the Policy
Please Read it Carefully.**

**PERSONAL INJURY COVERAGE -
LAW ENFORCEMENT OPERATIONS**

**This endorsement modifies insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE,
ENDORSEMENT C, PERSONAL INJURY COVERAGE -
LAW ENFORCEMENT OPERATIONS**

With respect to Endorsement C, subparagraph 4, "humiliation" is deleted.

Adopted by PACT Board of Directors on
January 24, 1995 to be effective March 1, 1995.



Martin J. Corcoran, President

Endorsement "S"

**This Endorsement Changes The Policy.
Please Read It Carefully.**

AMENDMENT OF SECTION IV - WHO IS AN INSURED

**This endorsement modifies the insurance provided under the
PUBLIC ENTITY LIABILITY INSURANCE POLICY - CLAIMS MADE**

SECTION IV - WHO IS AN INSURED, is hereby repealed, endorsement "A", and the endorsement dealing with the same subject effective March 1, 1994 is hereby deleted and a new SECTION IV - WHO IS AN INSURED is enacted to read as follows:

SECTION IV - WHO IS AN INSURED

Each of the following is an insured:

- a) **You;**
- b) **Any commission, board, authority, administrative department, or other similar unit operated by and under your jurisdiction;**
- c) **Your employees and authorized volunteers, other than licensed medical, nursing, dental or paramedical personnel, but only for acts within the scope of their employment or as authorized by you. However, none of these employees or authorized volunteers is an insured for:**
 - 1) **Bodily injury or personal injury to a co-employee or to a volunteer while in the course of his or her employment or while acting on your behalf;**
 - 2) **Bodily injury or personal injury arising out of personally providing or failing to provide professional health care service; or**
 - 3) **Property damage to property owned or occupied by or rented or loaned to that employee, that volunteer or any of your other employees or volunteers.**
- d) **Any duly elected or appointed officials and members of your governing body; and**
- e) **Any person or organization to whom you are obligated by virtue of a written contract to provide insurance such as is afforded by this policy; but only with respect to operations for you or to facilities you own, rent or use. The written**

contract must have been entered into prior to bodily injury, property damage, personal injury or advertising injury. The persons or organizations described above are insured only while acting within the scope of their duties with respect to a facility or operation that is designated in the **Schedule of Included/Excluded Operations** as "Included". Notwithstanding any other limit of liability contained in this policy, the limits of liability for coverage provided to the insured for **bodily injury or property damage** under this Section IV(e) shall not exceed \$100,000 for one person in a single accident or occurrence nor \$1,000,000 for all claims arising out of a single accident or occurrence.

ADOPTED BY Pact Board of Directors on August 15, 1995, to be effective November 1, 1995.



Michael G. Herring, President

Exhibit 2

BCA Inc.
Administrators

(314) 725-2960
Fax (314) 725-2989

9666 Olive Blvd., Ste. 205
St. Louis, MO 63132

July 22, 2015

Mr. Ed Beasley
Interim City Manager
City of Ferguson
110 Church Street
Ferguson, MO 63135

In Re: Keilee Fant et al v. City of Ferguson
SLAIT Claim No: 20.21910
Date/Loss: 01/26/2011

Dear Mr. Beasley:

As you know, we are the adjusters acting on behalf of the **St. Louis Area Insurance Trust, Inc. (SLAIT)**
In connection with the above matter.

We have received a copy of the Complaint that was filed in United States District Court, Eastern District of Missouri. In the lawsuit styled **Keilee Fant et al v. City of Ferguson**, Cause no: 4:15-cv-253. The defense of this case has been assigned to attorney Peter J. Dunne in the Pitzer Snodgrass Law Firm, under the policy of insurance issued by the **SLAIT** to the City of Ferguson.

SLAIT is defending this case subject to a full reservation of rights. Based on the allegations contained in the Complaint filed on behalf of the Plaintiffs, and the coverage provided to the City of Ferguson under the **SLAIT** policy, there are questions as to whether coverage under the policy applies to this claim.

Plaintiffs have raised claims in the following counts:

Count I, Defendant City of Ferguson Violated the Plaintiff's Rights by Jailing
Them for Their Inability to Pay the City;

Count II, Defendant City of Ferguson Violated Plaintiff's Rights by Imprisoning
Them Without Appointing Adequate Counsel;

Count III, Defendant City of Ferguson's Use of Indefinite and Arbitrary Detention
Violates Due Process;

Subsidiary of Bierman - Condray Inc.

Exhibit 2

SLAIT 2035

Count IV, The Deplorable Conditions in the Ferguson Jail Violates Due Process and Constitute Impermissible Punishment;

Count V, Defendant City of Ferguson's Use of Jail and Threats of Jail to Collect Debts Owed to the City Violates Equal Protection Because It Imposes Unduly Harsh and Punitive Restrictions on Debtors Whose Creditor is the Government Compared to Those Who Owe Money to Private Creditors; and,

Count VI, Defendant City of Ferguson's Policy and Practice of Issuing and Serving Invalid Warrants, Including Those Solely Based on Nonpayment of Monetary Debt, Violates the Fourth and Fourteenth Amendments.

Mr. Peter Dunne and the Pitzer Snodgrass Law Firm are defending this case. Coverage is provided to the City of Ferguson pursuant to the policy of insurance issued by **SLAIT** to the City.

Under the terms and conditions of the policy in insurance issued by **SLAIT** to Ferguson, the City of Ferguson is insured under the policy. Under the Insuring Agreement in the policy, **SLAIT** Agrees to pay those sums that the City of Ferguson becomes legally obligated to pay as damages because of :

1. Bodily Injury;
2. Property Damage;
3. Personal Injury;
4. Advertising Injury; and,
5. Errors or Omissions to which the policy applies.

Under the allegations contained in the Complaint, many of the claims asserted by the Plaintiffs do not fall within the coverage provided by the policy or are excluded by exclusions within the policy.

In addition, the amount **SLAIT** will pay for damages is limited, as described in the Limits of Insurance section of the policy. Further, damages is defined in the policy as a monetary judgment, award, or settlement, but does not include fines or penalties or damages for which insurance is prohibited by law applicable to the construction of the policy. Further, coverage is provided by the **SLAIT** policy for injuries or damages caused by an occurrence. An occurrence is defined with the policy as an accident, including continuous or repeated exposure to substantially the same general conditions.

Please be advised that in accepting this claim and assigning counsel to defend it, the **St. Louis Area Insurance Trust, Inc.** reserves all of its' rights and defenses in the above matter and does not waive compliance by the City of Ferguson with all terms and conditions contained within the policy of insurance issued by **SLAIT** to the City of Ferguson.

Please also be advised that **SLAIT** remains willing to defend this claim even though coverage questions exist. However, no act of any company representatives while investigating, negotiating, or defending the suit shall be construed as waiving any of **SLAIT'S** rights. **SLAIT** reserves its rights under the policy, to further analyze and report whether any claim asserted in this suit is covered under the terms and conditions of the policy. There may be other reasons why coverage does not apply. **SLAIT** does not waive its right to deny coverage for any other valid reasons that exist or may arise. **SLAIT** reserves its right to pursue any proceeding in a court of law to declare the rights of **SLAIT**.

If you have any questions about this letter, feel free to contact me.

Very Truly Yours,

Douglas R. Beermann
Claims Manager
St Louis Area Insurance Trust, Inc.

Cc: Stephanie Karr, Ferguson City Attorney

Cc: Stephen Wicker

Exhibit 3

8

BCA Inc.
Administrators

(314) 725-2960
Fax (314) 725-2989

9666 OLIVE BLVD STE 205
ST. LOUIS, MISSOURI 63132

MARCH 4, 2016

Mr. De'Carlton Seewood
City Manager
City of Ferguson
110 Church Street
Ferguson, MO 63135

Re: *Keilee Fant, et al. v. City of Ferguson*

SLAIT Claim Number 20.21910

Date of Loss: 01/26/2011

Dear Mr. Seewood:

This letter follows up my prior letter to Acting City Manager Ed Beasley, dated July 22, 2015. In that letter I advised Mr. Beasley that the St. Louis Area Insurance Trust, Inc. (SLAIT) is defending the above-referenced lawsuit subject to a full reservation of rights. I advised Mr. Beasley that any amount SLAIT would pay for damages is limited in accordance with the Limits of Insurance section of the policy. I also summarized both the claims in the complaint and issues regarding whether coverage under the SLAIT policy applies to plaintiffs' claim, noting that many of plaintiffs' claims "do not fall within the coverage provided by the policy or are excluded by exclusions within the policy." Having summarized coverage issues in my July 22, 2015 letter to Mr. Beasley, I am now delineating those coverage issues in this letter to you.

First, under Section II, Coverage, SLAIT will pay sums that its insured, the City of Ferguson, becomes legally obligated to pay as damages because of certain injuries, including bodily injury, personal injury, and errors or omissions injury, if those injuries are caused by an occurrence, which is defined as "an accident" or other specific events that are set out in Section I at page 5 of the policy. Based upon allegations in the complaint, plaintiffs' alleged injuries do not appear to be caused by "an occurrence" as defined in the policy. Accordingly, their claims for damages do not fall within the coverage provided by the SLAIT policy.

Second, pursuant to Section II, Coverage, Paragraph B, Exclusions, Sub-Paragraph (5), the insurance provided by SLAIT does not apply to "Liability arising out of the rendering of or failure to render professional medical, nursing, dental or paramedical services." Accordingly, claims for damages for bodily injury and personal injury arising out of alleged failure to provide medical services to persons incarcerated in the Ferguson jail will not be covered.

Subsidiary of Bierman - Condray Inc.

Exhibit 3

SLAIT 2001

Third, pursuant to Section II, Paragraph B (11), bodily injury and personal injury "caused by any dishonest, fraudulent, criminal or malicious act or omission of any insured" are excluded from coverage under the SLAIT policy. In the complaint plaintiffs seek damages for bodily injury and/or personal injury arising from alleged dishonest or fraudulent acts of Ferguson employees. Those claims are not covered by the SLAIT policy.

Fourth, Section II, Paragraph B (16) (c) also excludes from coverage under the SLAIT policy personal injury "arising out of the willful knowledge or violation of a penal statute or ordinance committed by or with the knowledge or consent of any insured." Based upon allegations in the complaint, plaintiffs appear to be seeking damages for personal injury arising from willful violations of state or local laws by Ferguson police and other employees. Those claims are excluded from coverage under the foregoing section of the SLAIT policy.

Fifth, pursuant to Section II, Paragraphs B (18) (d) (1) and B 18 (j), damages for errors or omission injuries arising out of "any insured obtaining remuneration of financial gain to which insured was not legally entitled" and/or "resulting from discrimination or violation of civil rights" are excluded from coverage under the SLAIT policy. Therefore, claims based upon allegations that Ferguson incarcerated plaintiffs to obtain money to which Ferguson was not legally entitled and/or that Ferguson engaged in discrimination that amounted to unequal treatment of certain debtors and/or that Ferguson committed civil rights violations are excluded from coverage.

Sixth, under Section V, Supplementary Payments, Paragraph C, Exclusions, Sub-Paragraph (3), the SLAIT policy will not pay expenses – as defined in Section V, Paragraphs (A) and (B) – for bodily injury to any inmate or prisoner imprisoned in the Ferguson jail. Thus, general expenses as defined in Paragraphs (A) and (B) of Section V will not be paid for bodily injury allegedly sustained by plaintiffs who claim they were incarcerated in the Ferguson jail.

Last, pursuant to Endorsement "H", there is an exclusion for class action suits that states:

We have no obligation under this policy to investigate, defend or pay any damages, judgments, loss, costs or expenses that may be awarded in a class action suit against any insured because of bodily injury, property damage, personal injury, advertising injury, error or omissions injury or employee benefit injury sustained by any person in connection with the employment or prospective employment of any person by any insured.

The complaint alleges that the named plaintiffs and members of the plaintiff class have sustained damages due to bodily injury, personal injury, and/or error or omissions injury in connection with the employment of police officers and other personnel by the City of Ferguson. Accordingly, pursuant to Endorsement "H," SLAIT has no obligation to pay any damages that may be awarded against Ferguson to the named plaintiffs and/or any members of the alleged plaintiff class because of bodily injury, personal injury, or error or omissions injury. Furthermore, SLAIT has no obligation even to investigate or defend this case.

Page 3

The fact that SLAIT continues to defend this case is not a waiver of SLAIT's right to invoke the foregoing exclusion, or any other provision or exclusion in the SLAIT policy, and to deny coverage for any award of damages that may be entered in favor of any of the named plaintiffs and/or members of the plaintiff class. As stated in my letter of July 22, 2015, SLAIT did not waive its right to deny coverage for any valid reason existing under the SLAIT policy and SLAIT reserved its right and continues to reserve its right to pursue any proceeding in court to declare its rights under the SLAIT policy, even though SLAIT continues to defend this claim

This letter and my prior letter of July 22, 2015 set forth SLAIT's position with regard to coverage issues. If you have any questions regarding this matter, please feel free to contact me.

Very truly yours,



Douglas R. Beermann

Claims Manager

ST. LOUIS AREA INSURANCE TRUST

CC: Stephanie Karr, Ferguson City Attorney

Stephen Wicker

Exhibit 4

LEWIS RICE LLC

Ronald A. Norwood
 rnorwood@lewisrice.com
 314.444.7759 (direct)
 314.612.7759 (fax)

Attorneys at Law

600 Washington Avenue
 Suite 2500
 St. Louis, Missouri 63101
 www.lewisrice.com

August 10, 2017

VIA E-MAIL AND U.S. MAIL

Ms. Bonnie Stevenson
 Claims Manager
 Corporate Claims Management, Inc.
 782 Spirit 40 Park Drive
 Chesterfield, MO 63005

Ms. Stacey J. Widlansky
 Senior Claims Analyst
 Allied World Insurance Company
 1690 New Britain Avenue, Suite 101
 Farmington, CT 06032

Re: Keilee Fant, et al. v. City of Ferguson
Cause No. 4:15-CV-00253-AGF

Dear Ms. Stevenson and Ms. Widlansky:

As you may know, our firm represents the City of Ferguson with respect coverage matters involving litigation pursued against the City of Ferguson. Enclosed is a letter dated July 27, 2017 that we received from the attorneys representing the Plaintiffs in the *Keilee Fant, et al. v. City of Ferguson* litigation.

As you can see from this letter, the Plaintiffs have made a demand of \$9.5 Million to settle the *Fant* class action lawsuit. In the letter, Plaintiffs' counsel framed this demand based upon its interpretation of the applicable SLAIT policy (which they suggest provides maximum coverage of \$7.5 Million) and the Allied World policy (which they suggest provides at least \$2 Million in coverage). In my discussions with counsel for Plaintiffs upon receipt of this demand, they have expressed a willingness to settle this case up to the maximum limits of the respective policies, whatever that maximum coverage turns out to be.

Based on our review of this correspondence and a review of both the SLAIT policy and the Allied World policy, our firm agrees that full coverage under the SLAIT policy has been triggered and that the Allied World policy provides full coverage despite its denial of coverage. As expressed by counsel for the Plaintiffs, as it relates to the SLAIT policy, the Plaintiffs intend on pursuing numerous claims on behalf of allegedly impacted punitive class members if the Court ultimately refuses to certify the case as a class action. Needless to say, such multiple suits would wreak havoc on the City, expose both SLAIT and Allied World to significant exposure both from a coverage and defense costs standpoint as well as a bad faith standpoint, if the insurance companies for the City do not move swiftly to resolve these cases. At this juncture, given the fact that class certification has not yet been denied, a settlement that would bind all punitive class members is a practicable resolution given the significant increased financial exposure to the City and the havoc that would result if the class ultimately is not certified and individual claims are pursued against the City.

Established 1909

Exhibit 4

LEWIS RICE_{LLC}

Ms. Bonnie Stevenson
Ms. Stacey J. Widlansky
August 10, 2017
Page 2

Based on these concerns, we hereby demand that both SLAIT and Allied World move quickly to settle this case as soon as possible within the limits of your respective policies. If you fail to do so, the City will have no choice but to take steps to minimize any exposure and, if necessary, pursue legal action, including, but not limited to, claims for bad faith refusal to settle.

After you have conducted a review of the Plaintiffs' demand and our demand to settle this case, please advise as to your respective positions regarding how you plan to proceed in light of this demand. We look forward to hearing from you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Renald A. Norwood", written over a horizontal line.

Renald A. Norwood

RAN:kip

Enclosure

cc: Stephen D. Wicker (w/encl. – via e-mail)
Martin J. Buckley (w/encl. – via e-mail)
Apollo Carey (w/encl. – via e-mail)

Thomas B. Harvey
Co-Founder,
Executive Director

Michael-John Voss
Co-Founder,
Director of Operations

Jacki Langum
Director of Advocacy



501(c)(3) Nonprofit
Holistic Legal Services

Christ Church Cathedral
1210 Locust St.
Second Floor
St. Louis MO, 63103

Main Phone: 855-724-2489
Fax: 314-925-1307

www.archcitydefenders.org

July 27, 2017

Mr. Carey and Mr. Norwood,

This letter serves as an updated demand to settle all claims against the City of Ferguson on behalf of the Plaintiffs and the purported class in *Fant v. Ferguson*, 4:15-cv-00253-AGF.

Offer of Settlement

Our analysis, as outlined below, confirms that there is at least \$9.5 million of insurance coverage available for the Plaintiffs' claims, and that there are several available paths to exhaust that coverage. This \$9.5 million includes at least \$2 million from the Allied World Policy and at least \$7.5 million from the SLAIT policy. Therefore, while we believe that the total damages awarded at trial could far exceed Ferguson's insurance coverage, Plaintiffs are prepared to resolve the monetary portion of the lawsuit on a classwide basis for \$9.5 million.

Such a settlement must also include forgiveness of debts owed to the City of Ferguson arising from municipal court cases for all members of the class and full amnesty for all cases yet to reach final resolution. If you agree to those terms, we are prepared to withdraw all other claims for injunctive and declaratory relief.

We believe that the current efforts by Ferguson and SLAIT to evade classwide resolution—by opposing class certification and asserting a class exclusion within the coverage, respectively—are ultimately counterproductive for both the City and its insurers. If either of these efforts are successful and Plaintiffs are unable to resolve their claims on a classwide basis, we fully intend to bring many individual suits on behalf of those harmed by Ferguson's policies.

We have already identified individual plaintiffs whose claims we continue to investigate. Additional individual plaintiffs are easily identifiable from the list of putative class members in this case. If forced, we are committed to bringing hundreds of individual cases and have the combined resources to pursue them to their end.

Individual cases spread out over multiple years would almost certainly lead to greater exposure for both Ferguson and its insurers. For the City's insurers, the claims could reach the applicable coverage limit each year for multiple years (at least 2.5 to 3 years of



the current claims period). For Ferguson, the City would be responsible for paying a deductible under its policies for each individual payout, which could ultimately cost the City hundreds of thousands of dollars. We believe this increased exposure, combined with the legal and reputational costs to the City should it be forced to defend itself against these claims for many years, should make classwide resolution desirable.

So that we may be prepared to take timely action in the event that this offer is rejected, we request that you provide us with a response to this demand within thirty days. The remaining sections of this letter outline the Plaintiffs' analysis of Ferguson's insurance coverage under both the SLAIT and Allied World policies.

Coverage Analysis

I. SLAIT

- a. The SLAIT policy class action exclusion only applies to claims that may be awarded in connection with employment practices, and accordingly does not apply in this case.*

The SLAIT policy language regarding the class action exclusion reads as follows:

“We have no obligation under this policy to investigate, defend or pay any damages, judgments, loss, costs or expenses that may be awarded in a class action suit against any insured because of bodily injury, property damage, personal injury, advertising injury, error or omissions injury or employee benefit injury sustained by any person in connection with the employment or prospective employment of any person by any insured.”

Given their plain meaning, the terms of the contract stipulate that the SLAIT policy would be barred from covering class action claims “sustained by any person in connection with the employment or prospective employment of any person by an insured.” Accordingly, class action claims regarding bodily injury, property damage, personal, injury, advertising injury, error or omissions injury or employee benefit injury sustained from an employment practice of the city would be barred from coverage.

Other claims not stemming from a “connection with the employment or prospective employment of any person by the [City of Ferguson]” are covered, assuming they meet the other stipulations of the policy. This interpretation is also supported by the fact that the first five types of injury listed (bodily injury, property damage, personal, injury, advertising injury, error or omissions injury) are all defined as categories of injury within the policy, while “employee benefit injury” is not. The inclusion of this phrase underscores the purpose of the exclusion, which is made clear by the final, modifying phrase.

In the alternative, the policy language should, at a minimum, be read as ambiguous. SLAIT has interpreted the language to bar coverage of all class action claims; however,



the language and sentence structure point to an alternate meaning. Given the ambiguity of the language, it should be construed in the favor of the insured, or the City of Ferguson. Accordingly, the terms should be read as only excluding class actions related to the employment practices of the city.

- b. If the class action exclusion were applicable in this case, bringing individual claims would result in maxing out the policy's general aggregate limit for multiple years.***

The named Plaintiffs alone could bring claims of personal injury and bodily injury far exceeding the \$7.5 million general aggregate limit stipulated by the SLAIT policy (which includes a \$2,500 deductible per claim for the City of Ferguson). *See* SLAIT Pol'y at 3. The named Plaintiffs each experienced multiple occurrences of "false arrest, detention or imprisonment" as well as "malicious prosecution" as defined by the SLAIT policy. *See id.* at 36 (defining personal injury coverage for law enforcement operations). Moreover, given the conditions suffered by the named Plaintiffs, each experienced multiple occurrences of bodily injury.

Additionally, a multi-suit strategy would in no way be limited to the named Plaintiffs, as these individuals represent only a small share of potentially hundreds of plaintiffs that could bring individual claims against the City. Given the relevant statute of limitations, the City and SLAIT could be held liable for claims up to the \$7.5M general aggregate limit for multiple years, potentially exposing SLAIT to far more liability than if the parties were to resolve the case as a single class action. Such a scenario would also result in a deductible payment by the City of Ferguson for every single claim.

- c. Assuming the class action exclusion is not applicable, the multiple offenses suffered by the named Plaintiffs will likely result in SLAIT providing coverage at the City's general aggregate limit.***

Assuming *arguendo* that the creation of the City's unlawful policy and practice as alleged in the Complaint was a single wrongful act for coverage purposes (as SLAIT and its representatives have argued), the multiple personal injury offenses suffered by the Plaintiffs and the class would easily raise SLAIT's coverage liability up to the general aggregate limit of \$7.5M. With respect to personal injury, the SLAIT policy defines "occurrence" as an offense described in the definition of personal injury. Personal injury with respect to coverage for law enforcement operations is defined in the SLAIT policy as an "injury (other than bodily injury) arising out of one or more of the following offenses: (1) false arrest, detention or imprisonment; (2) malicious prosecution; (3) wrongful entry into, eviction or other invasion of the right of private occupancy; (4) humiliation; (5) the publication of a libel, slander or other defamatory or disparaging material, or publication or utterance in violation of an individual's right to privacy; (6) false arrest or improper service of process; (7) violation of property rights." *See* SLAIT Pol'y at 36.



Plaintiffs and class members allege thousands of offenses as defined by the SLAIT policy, so while SLAIT may prefer to characterize the creation of Ferguson's policy as a single wrongful act, there are many offenses for which the City, and thus SLAIT, would potentially be held liable. Accordingly, assuming multiple offenses as a result of the creation of the City's policy, SLAIT's liability would extend well beyond the \$3M per-occurrence personal injury limit up to the \$7.5M general aggregate limit.

- d. Assuming the class action exclusion is not applicable and there is only one occurrence and one offense, the injuries suffered by plaintiffs and class members still create valid claims for at least \$6M of coverage under the policy.*

If the creation of the policy and practice served as the only relevant occurrence, the injuries suffered due to the policy and practice fall within both the personal injury and bodily injury categories of the SLAIT Policy. The SLAIT policy defines "bodily injury" as "bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time." At minimum, the claims against the City for its grotesque and inhumane jail conditions allege damages that would fall within the bodily injury portion of the SLAIT policy. Thus, even in the unlikely event that a personal injury "offense" were reinterpreted to mean the one-time creation of the City's unlawful policies, the personal injury and bodily injury per-occurrence limits would combine to make a total of \$6M in available coverage.

II. Allied World

- a. The Allied World policy law enforcement exclusion does not apply in this case since the claims arose from the enforcement of the municipal code, laws or regulations.*

The Allied World policy language regarding law enforcement reads, in pertinent part, as follows:

(C) The Insurer shall not pay any Loss or Defense Expenses from any claim based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving: ...

(11) the activities of any Insured as a law enforcement officer, police officer, department or other law enforcement unit or agency; the operation of any jail cell, holding cell, detention or lock-up facility of any kind; or the activities of any Insured charged with the power to arrest, detain or interrogate another person, or to seize or confiscate the property of any individual or entity;

provided however; that this Exclusion shall not apply to Claims arising out of the administrative functions or activities of any Insured in the enforcement of the municipal code, laws or regulations of the Named Insured, including but not limited to, the



issuance of citations, fines, warnings, notices of violation, the issuance or denial of licenses or permits, or the inspection of property of buildings, by persons authorized to conduct such functions or activities on behalf of the Named Insured.

Allied World argues that the C.11 exclusion applies in this case. However, this ignores the clear exception to the Exclusion that it does not apply to "claims arising out of administrative functions or activities... in the enforcement of the municipal code, laws or regulations of the [City]." The Complaint specifically targets the administrative functions and activities associated with enforcing municipal code laws and regulations. Accordingly, the exclusion is not applicable in this case and Allied World should be held liable for coverage of the claims alleged by the Plaintiffs up to the \$2M policy limit.

b. The Allied World policy's exclusions of claims of bodily harm and emotional harm do not preclude coverage of the claims in this case.

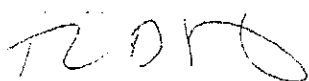
Beyond claims of bodily and emotional harm, the Plaintiffs' Complaint consists of claims that fall within the policy's "Public Officials Wrongful Act," given that the activities alleged were carried out by the "Insured" as defined in the policy. *See* Allied World Pol'y at 13 (defining "Insured" as the City of Ferguson as well as "elected, appointed or employed officials" and "employees" of the City of Ferguson). Damages claimed by Plaintiffs and the class members they seek to represent admittedly include bodily and emotional harm, but are in no way limited to these categories of injury.

Conclusion

We believe that neither the SLAIT class action policy exclusion nor the Allied World law enforcement exclusion applies to the claims made in *Fant*. Moreover, while the Allied World exclusions for bodily and emotional harm will apply to some of the claims, the Plaintiffs allege claims of personal injury that still fall within the Allied World coverage. There are multiple scenarios in which Ferguson's insurers will be liable for coverage of the claims in this case—whether on a class basis or through many individual lawsuits—and no scenario in which its insurers completely escape liability.

We therefore issue this classwide settlement demand for payment of \$9.5 million and other terms as outlined above. We look forward to receiving your response within thirty days and remain open to discussing this matter with you further.

Very truly yours,



Thomas B. Harvey
Executive Director, Co-Founder



/s/Michael-John Voss

Michael-John Voss

/s/Blake A. Strode

Blake A. Strode

/s/Nathaniel R. Carroll

Nathaniel R. Carroll

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Alec Karakatsanis
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Exhibit 5

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November 27, 2017

rnorwood@lewisrice.com

Mr. Ronald A. Norwood

LewisRice LLC

600 Washington Ave, Ste. 2500

St. Louis, MO 63101

RE: St. Louis Area Insurance Trust v. City of Ferguson

Dear Mr. Norwood:

This follows up on our telephone conversation on October 26. I had previously sent you St. Louis Area Insurance Trust's (SLAIT) coverage position on September 20, 2017. I wanted to clarify that the coverage position taken by SLAIT is based on the pleadings as they currently stand. As discussed, if the pleadings would change, SLAIT's coverage position would be different. In particular, if the individual Plaintiffs' claims were brought simply as individuals, and not as a class action, SLAIT would withdraw its reservations of rights. Instead, each individual's claim would be treated as being within coverage as a claim for personal injury resulting from law enforcement operations. They would not be considered claims for bodily injury, property damage, advertising injury or errors or omissions.

I hope this clarification is helpful. Let me know if you have any questions.

Cordially,



Martin J. Buckley

MJB:ad

Exhibit 5

Exhibit 6

1
2 In the Circuit Court of the County of St. Louis
3 State of Missouri
4

5 CITY OF FERGUSON, et al.,
6

7 PLAINTIFFS,
8

9 vs. Cause No. 16SL-CC02387
10

11 ST. LOUIS AREA INSURANCE TRUST,
12

13 DEFENDANT.
14

15 Corporate Designee Deposition of
16

17 STEVE WICKER
18

19 JUNE 19, 2018
20

21 Taken at:
22

23 Buckley & Buckley, 800 Market Street
24

25 Margaret M. Perry, MO & IL CSR

Exhibit 6

<p style="text-align: right;">Page 6</p> <p>1 Exhibit 14 - Correspondence 148</p> <p>2 Exhibit 15 - 8/27/15 letter 149</p> <p>3 Exhibit 16 - 9/16/15 letter 151</p> <p>4 Exhibit 17 - Reporter re: Brown 152</p> <p>5 Exhibit 18 - E-mail series 155</p> <p>6 Exhibit 19 -</p> <p>7 Re: Font, Webb & Thomas case 156</p> <p>8 Exhibit 20 - not used</p> <p>9 Exhibit 21 - Thomas v. St. Ann 160</p> <p>10 Exhibit 22 - BCA letter 161</p> <p>11 Exhibit 23 - Letter to file 162</p> <p>12 Exhibit 24 - SLAIT letter 163</p> <p>13 Exhibit 25 - Letter 164</p> <p>14 Exhibit 26 -</p> <p>15 Coverage Communication 165</p> <p>16 Exhibit 27 - News Conference 166</p> <p>17 Exhibit 28 - Lawsuit 167</p> <p>18 Exhibit 29 - Settlement Payment 167</p> <p>19 Exhibit 31 - Deposition Notice 10</p> <p>20 Exhibit 33 - SLAIT 2973-2977 88</p> <p>21 Exhibit 34 - SLAIT 2978-2993 88</p> <p>22 Exhibit 35 - SLAIT 2994-3008 88</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 8</p> <p>1 Corporate Designee of that entity?</p> <p>2 A. Yes.</p> <p>3 Q. And have you had a chance to review the</p> <p>4 Deposition Notice directed to St. Louis Area</p> <p>5 Insurance Trust?</p> <p>6 A. Yes.</p> <p>7 Q. All right. We're going to talk more about</p> <p>8 that as we move along. Have you ever been deposed</p> <p>9 before?</p> <p>10 A. If I was, it was about 30 years ago.</p> <p>11 Q. Okay. So it's been awhile, all right.</p> <p>12 A. Yes.</p> <p>13 Q. So that means a refresher in deposition</p> <p>14 101 may be necessary. As it relates to the</p> <p>15 deposition, of course, I'm going to ask you a</p> <p>16 series of questions and you took an oath to tell</p> <p>17 the truth, you understand that; correct?</p> <p>18 A. Yes.</p> <p>19 Q. And if I ask a question you don't</p> <p>20 understand, you can say so and I'll try to rephrase</p> <p>21 it. If you answer the question, we'll have to</p> <p>22 assume that you both heard the question and</p> <p>23 understood the question, can we agree that?</p> <p>24 A. Sure.</p> <p>25 Q. If you need to take a break, feel free to</p>
<p style="text-align: right;">Page 7</p> <p>1 STEVE WICKER,</p> <p>2 of lawful age, having been first duly</p> <p>3 sworn to testify the truth, the whole truth, and</p> <p>4 nothing but the truth in the case aforesaid,</p> <p>5 deposes and says in reply to oral</p> <p>6 interrogatories propounded as follows, to-wit:</p> <p>7 DIRECT EXAMINATION</p> <p>8 QUESTIONS BY MR. NORWOOD:</p> <p>9 Q. Good afternoon, sir. My name is Ron</p> <p>10 Norwood and we're here in conjunction with a</p> <p>11 lawsuit denominated, currently denominated as the</p> <p>12 City of Ferguson versus St. Louis Area Insurance</p> <p>13 Trust pending in St. Louis County. Would you state</p> <p>14 your full name for the record, please?</p> <p>15 A. Steven Wicker.</p> <p>16 Q. And where do you reside?</p> <p>17 A. 11909 Moorland Manor Court.</p> <p>18 Q. I'm sorry? 11909?</p> <p>19 A. 11909 Moorland Manor Court.</p> <p>20 Q. And where is that?</p> <p>21 A. It's between Maryland Heights and Creve</p> <p>22 Coeur, St. Louis County.</p> <p>23 Q. All right. And now do you understand that</p> <p>24 you have been designated by St. Louis Area</p> <p>25 Insurance Trust to provide testimony as the</p>	<p style="text-align: right;">Page 9</p> <p>1 say so and we'll do that. Other than that, you</p> <p>2 know, we're going to just jump right in. Let me</p> <p>3 talk then about, and hand you, I guess what has</p> <p>4 been marked as Deposition Exhibit 31 and ask you if</p> <p>5 you can take a look at that for us.</p> <p>6 MR. VIETH: Ron, do you have extra copies</p> <p>7 of everything you brought?</p> <p>8 MR. NORWOOD: Yes, I have copies of that.</p> <p>9 I may not use it all, so let me give it to you as</p> <p>10 we go through.</p> <p>11 MR. VIETH: Is there a WiFi connection?</p> <p>12 MR. BUCKLEY: Okay.</p> <p>13 (Off the record)</p> <p>14 Q. (By Mr. Norwood) So Mr. Wicker, I've</p> <p>15 handed you what's been marked as, pre-marked as</p> <p>16 Deposition Exhibit 31. Is that the Notice of</p> <p>17 Deposition that you reviewed, that you referred to</p> <p>18 earlier?</p> <p>19 A. Yes.</p> <p>20 Q. All right. And so I just want to make</p> <p>21 sure we go down the topics. We did receive from</p> <p>22 Mr. Buckley some objections that were filed on</p> <p>23 Friday while I was in Italy, so I didn't have a</p> <p>24 chance to review it much there, but I have had a</p> <p>25 chance to review it, and so I just want to make</p>

Page 38

1 your property insurance from MOPERM, I think that
2 basically the finance director checked MOPERM
3 versus the policies that we have through Chubb to
4 see which price is the best, and then other than
5 that, we wouldn't be providing anything currently.
6 Q. Currently, okay. How about over the
7 timeframe in which the City of Ferguson has been a
8 member of SLAIT?
9 A. We were probably providing public
10 officials quotes prior to that, but as I understand
11 it, MOPERM does that, that's included in MOPERM, so
12 we don't do that any longer.
13 Q. Well pre-MOPERM?
14 A. Yeah, then we probably did public
15 officials.
16 Q. That would have been with companies like
17 Allied World?
18 A. Yes.
19 Q. All right. As it relates to the Allied
20 World coverage provided to the City of Ferguson as
21 it relates to the Fant case, was Daniel and Henry
22 the broker for procuring that Allied World coverage
23 for the City of Ferguson?
24 A. I think so.
25 Q. All right. When you say you "think so",

Page 39

1 how would you know for sure? Is there a way you
2 could find --
3 A. I'd just have to go back and check to make
4 sure we were.
5 Q. Would there be documents to show that?
6 A. Yes.
7 Q. Okay. And when you say you would offer
8 quotes for Allied World coverage, is that all you
9 would do as a broker for, in this case, the City of
10 Ferguson as it relates to Allied and the public
11 officials' coverage?
12 A. Yes. And you'd review the coverage
13 document and try to get close to the best that's
14 out there on the marketplace too.
15 Q. Okay. And in conjunction with making, or
16 seeking out, in this case, the public officials'
17 coverage, would you have multiple options available
18 to recommend to a company like the City of
19 Ferguson?
20 A. You could.
21 Q. And in this case, do you recall if, in
22 fact, you provided options other than Allied World
23 with respect to the public officials' coverage?
24 A. Generally what we do, and it depends, if
25 you had been with an Allied World, let's say, three

Page 40

1 or four years and you know what the renewal quote
2 is, you'll probably tell the marketplace that you
3 "need to meet this kind of coverage document and
4 here's where it's priced now, can you do that or
5 not", in that sense, some of them say "we're not
6 going to quote", but you check with all those
7 companies.
8 Q. Okay. All right. Now let's talk more
9 about SLAIT. You talked about them being a sort of
10 self-insured's pool; is that a fair assessment?
11 A. Yes.
12 Q. When was SLAIT formed?
13 A. '86.
14 Q. And that formation, was that the joinder
15 of some different companies?
16 A. Not companies, it would have been the
17 various municipalities in St. Louis County that
18 were looking at it. One of the first things they
19 did was they wanted it to be, have professionally
20 managed cities, so in other words, only cities with
21 city managers or city administrators were eligible,
22 and then basically the only other underwriting
23 criteria is they shouldn't have utilities because
24 that is more difficult to market the excess, and in
25 St. Louis County, frankly, it's not very difficult

Page 41

1 to find municipalities that don't provide
2 utilities.
3 Q. Well, we'll talk about that in more detail
4 when we get to that document. Okay. SLAIT, you
5 say, was formed around 1986?
6 A. That was the workers' comp.
7 Q. When it was formed, what law firms were
8 involved in that formation?
9 A. Evans & Dixon did the work on the trust.
10 Q. Okay. Did Mr. Peter Dunn have any
11 involvement in that formation?
12 A. No.
13 Q. Okay. Did the Pitzer firm have any
14 involvement that formation?
15 A. No.
16 Q. Did the Pitzer firm or has the Pitzer firm
17 represented SLAIT as a SLAIT entity?
18 A. I guess it has, yeah.
19 Q. In what capacities?
20 A. Probably just looking at helping us come
21 up with, you know, some kind of policy or
22 resolution that maybe we did endorse a policy, to
23 add an endorsement to the policy. Other than that,
24 not really, they do mostly claims work.
25 Q. Mostly claims work. Do they also provide

<p style="text-align: right;">Page 42</p> <p>1 work as coverage counsel for SLAIT?</p> <p>2 A. No, they probably did when we assigned a</p> <p>3 claim to somebody, to Krehbiel or somebody else</p> <p>4 that was doing the claim, they might have.</p> <p>5 Q. I'm not following. What are you saying?</p> <p>6 A. I'm not sure if they've ever done a</p> <p>7 coverage letter or not.</p> <p>8 Q. Okay. All right. So as you sit here now,</p> <p>9 you can't say one way or the other whether or not</p> <p>10 the Pitzer firm has served as coverage counsel for</p> <p>11 SLAIT; is that correct?</p> <p>12 A. Right. I'm not sure.</p> <p>13 Q. Okay. Do you know if the Pitzer firm has</p> <p>14 provided advice to SLAIT regarding coverage issues</p> <p>15 associated with the SLAIT policy and SLAIT members?</p> <p>16 A. Yes, I'm sure they have.</p> <p>17 Q. Okay. Tell me more about that.</p> <p>18 A. If you have a claim and you basically, any</p> <p>19 question whether or not it's covered, which for the</p> <p>20 most part it doesn't come up that often, you might</p> <p>21 ask, and for the most part, these are things that</p> <p>22 are done by the claims provider.</p> <p>23 Q. What do you mean?</p> <p>24 A. We hire a claims provider to administer</p> <p>25 the claims and coordinate with the attorneys, et</p>	<p style="text-align: right;">Page 44</p> <p>1 would have been involved in the discussions about</p> <p>2 starting the trust and attended meetings and</p> <p>3 decided to join.</p> <p>4 Q. All right. Now, was there a time when it</p> <p>5 was decided by SLAIT that the City of Ferguson</p> <p>6 would no longer be eligible for liability insurance</p> <p>7 coverage through SLAIT?</p> <p>8 A. No.</p> <p>9 MR. BUCKLEY: Are we on Number 6 now?</p> <p>10 MR. NORWOOD: I'm not sure what number.</p> <p>11 MR. BUCKLEY: Okay. Well, we'll call it</p> <p>12 6.</p> <p>13 Q. (By Mr. Norwood) So you're saying then</p> <p>14 that there wasn't -- let me ask it this way;</p> <p>15 does -- what kind of insurance does the City of</p> <p>16 Ferguson currently have through SLAIT?</p> <p>17 A. They have workers' compensation and</p> <p>18 they're in the health plan.</p> <p>19 Q. All right. And what about liability</p> <p>20 coverage?</p> <p>21 A. They don't have liability coverage.</p> <p>22 Q. And why don't they have liability coverage</p> <p>23 through SLAIT?</p> <p>24 A. When we were doing the renewal after the</p> <p>25 Michael Brown incident, it became impossible to get</p>
<p style="text-align: right;">Page 43</p> <p>1 cetera. They do most of that work.</p> <p>2 Q. Okay.</p> <p>3 A. If you were going to get a reservation of</p> <p>4 rights letter, it's probably written under, in</p> <p>5 those days, Doug Beermann's signature.</p> <p>6 Q. Okay. And so it's your understanding then</p> <p>7 in conjunction with the preparation of the</p> <p>8 Reservation of Rights letter, that the Pitzer firm</p> <p>9 might be involved in that process as it relates to</p> <p>10 that Reservation of Rights?</p> <p>11 A. They might have had discussions with Mr.</p> <p>12 Beermann.</p> <p>13 MR. BUCKLEY: Are we talking about a</p> <p>14 particular claim or in the abstract?</p> <p>15 MR. NORWOOD: I'm talking about in the</p> <p>16 abstract right now.</p> <p>17 A. Yeah, they might have might have had</p> <p>18 discussions with Mr. Beermann.</p> <p>19 Q. (By Mr. Norwood) Okay. When did the City</p> <p>20 of Ferguson become a member of SLAIT, do you know?</p> <p>21 A. Charter member.</p> <p>22 Q. Charter member, meaning when it was formed</p> <p>23 in 1986?</p> <p>24 A. Yes, they would have been -- I can't</p> <p>25 remember who the city manager was then, but they</p>	<p style="text-align: right;">Page 45</p> <p>1 police liability excess coverage, so...</p> <p>2 Q. For SLAIT?</p> <p>3 A. From -- from the excess carrier for SLAIT.</p> <p>4 Q. Because of the City of Ferguson?</p> <p>5 A. Ferguson was going to have to not be</p> <p>6 covered. So we tried a lot of ways to get them</p> <p>7 covered, and I think what the SLAIT Board would</p> <p>8 have done had Ferguson not found another option, I</p> <p>9 think the SLAIT Board would have covered them up to</p> <p>10 the self-insured retention.</p> <p>11 Q. Was that ever communicated to the City of</p> <p>12 Ferguson?</p> <p>13 A. Sure.</p> <p>14 Q. By whom?</p> <p>15 A. By me, I think.</p> <p>16 Q. In what form?</p> <p>17 A. Discussions with Jeff Bloom.</p> <p>18 Q. And who is Jeff Bloom?</p> <p>19 A. Finance Director.</p> <p>20 Q. Okay. Tell me about those discussions</p> <p>21 with Jeff Bloom regarding the possibility of the</p> <p>22 City of Ferguson continuing to have liability</p> <p>23 insurance coverage through SLAIT.</p> <p>24 A. It's a much bigger story than that. When</p> <p>25 we had indications that it would be difficult to</p>

Page 54

1 auto liability.
2 Q. Okay. What is police liability?
3 A. Law enforcement liability, you know, in
4 1983 against police officers, excessive force,
5 false arrests, that's basically it.
6 Q. Okay. All right. And did, after '90 --
7 I'm sorry. After 1987, were the entrees of
8 liability insurance coverages available to the City
9 of Ferguson expanded?
10 A. No, not really.
11 Q. Okay. So throughout the entire time
12 frame, the City of Ferguson just had police, law
13 enforcement liability coverage?
14 A. And auto.
15 Q. And auto?
16 A. Yes.
17 Q. All right. Any other types of insurance
18 coverages obtained through SLAIT by the City of
19 Ferguson?
20 A. No, really all SLAIT offered was the
21 liability and workers' compensation.
22 Q. Okay. What about health insurance?
23 A. They added health, I guess it's been about
24 nine years now.
25 Q. Okay. So health ultimately came online at

Page 55

1 some point?
2 A. Yes.
3 Q. Along with the liability, along with the
4 workers' comp?
5 A. Right.
6 Q. All right. Now, what firms did SLAIT use
7 as panel counsel to represent SLAIT members, let's
8 say, starting when this liability insurance came
9 online?
10 A. At first we used -- a couple of things The
11 Board did, one, they weren't going to allow city
12 attorneys to defend SLAIT claims, I think primarily
13 because they just thought that would have every
14 city attorney going "this one should be mine". So
15 they used Armstrong Teasdale to start. They then,
16 like a lot of cities do, put together a committee
17 to select defense counsel and at that time, they
18 really only needed one, they ended up with Peter
19 Dunn when it was Rabbit Pitzer & Snodgrass.
20 Q. Okay. So when did Rabbit Pitzer &
21 Snodgrass -- they were the exclusive panel counsel?
22 A. Yes, I don't know when it was it, probably
23 1989-1990ish.
24 Q. Okay. So how long did they remain as the
25 exclusive panel counsel for SLAIT members?

Page 56

1 A. Yeah, they, I guess they weren't totally
2 exclusive because occasionally you can have a
3 conflict and in that case, we used Kreihbiel, Bob
4 Kreihbiel.
5 Q. King Kreihbiel?
6 A. Yes, King Kreihbiel & Hellmich.
7 Occasionally we used Brown & James. Those were
8 normally chosen by the claims provider.
9 Q. And that would have been in those
10 situations where there would be a conflict for
11 Pitzer?
12 A. Yeah. And really not too many conflicts,
13 but it comes up a lot of times in police
14 situations, you need an attorney for the City and
15 you need an attorney for the officer, so there
16 might be some problems there, so in those cases,
17 you may need two of them.
18 Q. Where you need separate counsel?
19 A. Yes.
20 Q. And that would be a conflict as well,
21 right? I mean, in other words, the Pitzer firm
22 couldn't represent the City, and in the case of an
23 officer, maybe a police officer who has been sued
24 as well?
25 A. Yes. And as I understand the particulars,

Page 57

1 often they -- most often they're, there isn't a
2 conflict, but when you might come up with one, you
3 might be confused of doing something that's outside
4 the law, outside the City's procedures, et cetera,
5 that's my understanding.
6 Q. Okay. Now, let's talk about the Fant
7 lawsuit. Does the City of Ferguson have SLAIT
8 coverage for the Fant lawsuit?
9 MR. BUCKLEY: Let me object. That's
10 subject to the declaratory judgment on both sides,
11 but you can answer if they are providing any form
12 of coverage.
13 A. We've been providing defense, my legal
14 opinion, which isn't, I'm the only person in here
15 that's maybe not a lawyer except for her.
16 Q. (By Mr. Norwood) Well, I'm not asking you
17 for a legal opinion.
18 A. When you have a class action exclusion,
19 but it is being defended and has been from the
20 beginning.
21 Q. Okay. So the answer to my question then
22 is; you understand as the Corporate Designee of
23 SLAIT that there is no coverage because of this,
24 what you refer to as a class action exclusion;
25 correct?

<p style="text-align: right;">Page 58</p> <p>1 A. Yes.</p> <p>2 Q. Outside of what you refer to as the class</p> <p>3 action exclusion, are there any other exclusions</p> <p>4 that you believe preclude coverage for the Fant</p> <p>5 lawsuit?</p> <p>6 MR. BUCKLEY: Let me object. It calls for</p> <p>7 a legal opinion, which no one can give but a judge,</p> <p>8 and pleadings, forms of opinions of the company.</p> <p>9 Subject to that, go ahead.</p> <p>10 MR. NORWOOD: Well, just for the record,</p> <p>11 though, part of the topics relate to the denial of</p> <p>12 coverage and the issuance of Reservation of Rights</p> <p>13 letter, which is Topic Number 9, so what I'm trying</p> <p>14 to figure out from this Corporate Designee is</p> <p>15 SLAIT's position regarding the coverage, and so to</p> <p>16 the extent that he can shed some light on that as a</p> <p>17 Corporate Designee, that's what I'm asking for.</p> <p>18 MR. BUCKLEY: I understand. The objection</p> <p>19 stands.</p> <p>20 MR. NORWOOD: Okay.</p> <p>21 Q. (By Mr. Norwood) So back to my original</p> <p>22 question, which is; outside of what you referred to</p> <p>23 as a class action exclusion, are there other</p> <p>24 exclusions that SLAIT is relying upon to suggest</p> <p>25 that there's no coverage for the City of Ferguson</p>	<p style="text-align: right;">Page 60</p> <p>1 of Rights letters all the time and they're 18 pages</p> <p>2 long.</p> <p>3 Q. (By Mr. Norwood) Right.</p> <p>4 A. They're -- I'm never quite sure why.</p> <p>5 Q. All right. As it relates to discussions</p> <p>6 by the SLAIT board members about this exclusion and</p> <p>7 the City of Ferguson, what discussions have The</p> <p>8 Board members had about this exclusion?</p> <p>9 MR. BUCKLEY: Let me object. Just for</p> <p>10 clarification, I'm not trying to be obstreperous,</p> <p>11 do you mean what conversations have there been on</p> <p>12 The Board about just exclusion H in general or with</p> <p>13 respect to this particular case?</p> <p>14 MR. NORWOOD: Well, let's start with both.</p> <p>15 Q. (By Mr. Norwood) In general.</p> <p>16 A. I would say that The Board has never</p> <p>17 discussed the exclusion specifically other than</p> <p>18 authorizing the declaratory judgment action. It's</p> <p>19 not something that The Board has looked, but should</p> <p>20 we have.</p> <p>21 Q. I'm sorry? I didn't hear you.</p> <p>22 A. The Board's never looked at should we have</p> <p>23 a class action exclusion or not.</p> <p>24 Q. How did until Endorsement H come about?</p> <p>25 A. It goes back to the beginning of the trust</p>
<p style="text-align: right;">Page 59</p> <p>1 for this case?</p> <p>2 A. My layman's opinion would be, having read</p> <p>3 quite a few Reservation of Rights letters, that</p> <p>4 there are often things put in there that I wouldn't</p> <p>5 find to be substantive, but that attorneys feel</p> <p>6 they should at least be raised in case the lawsuit</p> <p>7 goes left, right and wherever. For the most part,</p> <p>8 you know, other than maybe punitive damages, I</p> <p>9 think the class action issue is the issue.</p> <p>10 Q. Okay. So on behalf of SLAIT then, if I'm</p> <p>11 understanding your testimony, is that the sole</p> <p>12 basis for which SLAIT believes that there is no</p> <p>13 coverage for the Fant lawsuit is because of this</p> <p>14 Endorsement H which talks about class actions, is</p> <p>15 that correct?</p> <p>16 MR. BUCKLEY: Let me object. It misstates</p> <p>17 his previous testimony. He said the punitive</p> <p>18 damages and the exclusion of Endorsement H, and it</p> <p>19 calls for a legal conclusion. Subject to that, you</p> <p>20 can go ahead.</p> <p>21 A. Yeah, I, I, you know, the basic answer is;</p> <p>22 we hire a claims company who then can use the</p> <p>23 coverage attorney. I assume there is some things</p> <p>24 in there that I would not necessarily be aware of,</p> <p>25 but, you know, I get public officials' Reservation</p>	<p style="text-align: right;">Page 61</p> <p>1 when, in 1987, probably 90 percent of the</p> <p>2 municipalities, I wouldn't know for sure, had a</p> <p>3 policy with a division or subsidiary of Hartford</p> <p>4 and it was called PENCO, I think it stood for</p> <p>5 Public Entity Company, P-E-N-C-O, so they were</p> <p>6 putting the liability trust together, they</p> <p>7 basically said "let's use that policy, that's what</p> <p>8 most people have". That endorsement was in that</p> <p>9 policy. If you're looking through the SLAIT</p> <p>10 policy, you'll notice that when you get farther</p> <p>11 back in the endorsements, the chairman has signed</p> <p>12 things where we have changed three or four things,</p> <p>13 but Endorsement H would have been in the PENCO</p> <p>14 policy, so it's been there since 1987.</p> <p>15 Q. When they started offering the liability</p> <p>16 coverage?</p> <p>17 A. Yes.</p> <p>18 Q. All right. And so if I'm understanding</p> <p>19 your prior testimony is; you don't recall any</p> <p>20 meetings where this issue about endorsement age and</p> <p>21 the class action exclusion came up as part of those</p> <p>22 discussions; is that your testimony?</p> <p>23 A. Right.</p> <p>24 Q. All right. In general?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 62</p> <p>1 Q. As it relates to the City of Ferguson, do 2 you recall any discussions at The Board level as it 3 relates to Endorsement H? 4 A. Only when discussing litigation. 5 Q. I'm sorry? 6 A. Only when discussing litigation. 7 Q. What do you mean by that? 8 A. I mean The Board authorized filing the 9 declaratory judgment suit. 10 Q. Okay. And what do you recall about those 11 discussions as it relates to the authorization of 12 the filing of the declaratory judgment action? 13 A. There really -- I don't think there were 14 any discussions. It was presented to them that 15 "there's this exclusion, we're not sure whether a 16 judge would say it applies, so we'll have to find 17 out because we have three or four of these 18 lawsuits". 19 Q. Let's talk about that then. First of all, 20 these discussions, would those be reflected in 21 those meeting minutes that you identified? 22 A. They would be in closed meeting minutes. 23 Q. Closed meeting minutes? But they would be 24 reflected in those minutes, is that correct? 25 A. (Witness nods)</p>	<p style="text-align: right;">Page 64</p> <p>1 that because The Board wanted to be aware of where 2 Ferguson stood as far as police liability 3 coverage -- 4 Q. Okay. 5 A. -- starting July of 2015. 6 Q. Okay. Do you know -- strike that. Did 7 you or anyone else, to your knowledge, advise the 8 City of Ferguson that there would not be coverage 9 for the city in the case of this type of class 10 action lawsuit? 11 A. Other than providing the insurance policy 12 to them? 13 Q. Right. 14 A. No. 15 Q. Other than providing the insurance policy 16 to them? 17 A. No. 18 Q. All right. To your knowledge, has SLAIT 19 provided coverage to any SLAIT member as it relates 20 to any class action lawsuit? 21 A. I've learned that we have in something 22 called Powell versus St. Ann. 23 Q. Other than Powell versus St. Ann, we're 24 going to talk about that a little more in detail, 25 other than that lawsuit, are you aware of SLAIT</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. I'm sorry? 2 A. They would probably be in a memo to a 3 file. 4 Q. In a memo to whose file? 5 A. To the SLAIT files. 6 Q. Okay. Would it be reflected in meeting 7 minutes? 8 A. I don't think so. 9 Q. Either opened or closed? 10 A. I don't think so. 11 Q. Okay. If they were, you have those 12 meeting minutes, correct? 13 A. Right. 14 Q. All right. Do you have meeting minutes 15 where -- that reflect discussions regarding the 16 City of Ferguson either as it relates to the Fant 17 case or as it relates to the issue or issues that 18 you described earlier about whether or not the City 19 of Ferguson could continue to receive liability 20 coverage through SLAIT? 21 A. I'm pretty sure the meeting that would 22 have been right before the renewal that The Board 23 discussed the fact that, and I probably reported it 24 because I was told that Ferguson was able to secure 25 coverage through MOPERM and we probably reported</p>	<p style="text-align: right;">Page 65</p> <p>1 providing coverage to any SLAIT member for any 2 class action lawsuit? 3 A. No. 4 Q. To your knowledge, has any court ever 5 ruled that Endorsement H precludes coverage for any 6 type of class action lawsuit? 7 A. No. 8 Q. Are you aware of any case out of any court 9 that has ruled that this Endorsement H precludes 10 coverage for any type of class action lawsuit? 11 MR. BUCKLEY: Objection. Calls for 12 speculation. Calls for a legal conclusion. 13 Subject to that, you can go ahead. 14 A. No, that's sort of my answer; I have no 15 idea. 16 Q. (By Mr. Norwood) I'm sorry? 17 A. I always assume since Endorsement H says 18 class action exclusion, that it was a class action 19 exclusion, but I'm not aware of what any courts 20 have done. 21 Q. Do you know if that class action exclusion 22 is limited to employment class actions? 23 A. I do not. 24 Q. All right. How does a SLAIT member go 25 about obtaining coverage for class action</p>

17 (Pages 62 - 65)

<p style="text-align: right;">Page 98</p> <p>1 A. Yes, and usually it would come up, I don't 2 think we've ever had a claim, if the firm hired 3 somebody and made the mistake of not telling them 4 they could get health insurance. 5 Q. Okay. Well, what about if there's an 6 error saying providing proper ERISA benefits? 7 Would that fall under that kind of -- 8 A. It could unless ERISA might be excluded, 9 but I'm not sure. 10 Q. Okay. Then we've got business, auto 11 liability insurance, medical individual stop loss. 12 What is medical individual stop loss? 13 A. These are for the health plan, so the 14 health plan you could, you buy insurance very 15 similar to what we've talked about, it comes 16 basically by covered person, so if somebody had, in 17 this particular case, claims in a 12-month period 18 over \$225,000, so they were very sick or had a 19 catastrophic injury, the insurance company will pay 20 everything over 225. 21 Q. Okay. And then the medical aggregate stop 22 loss? 23 A. That's just another way to get, we 24 basically have a pool of money we're going to pay 25 medical claims with, this is, this adds an</p>	<p style="text-align: right;">Page 100</p> <p>1 A. I think that's exactly the way PEMCO 2 labeled them, so it's a liability policy for a 3 public entity. 4 Q. Okay. And is that different than police 5 and law enforcement coverage that you talked about 6 earlier? 7 A. It includes the police and law enforcement 8 coverage. 9 Q. It includes police and law enforcement, 10 okay. If we go to the next page, and it lists the 11 coverages provided; correct? 12 A. Yes. 13 Q. On 5, it's on the next page, which is 14 Bates Stamped Page Number 3, and it's under the 15 section called "coverage", which is item 5; right? 16 A. Yes. 17 Q. And the coverages include, within the 18 public entity liability insurance coverage, 19 includes products completed operations coverage; 20 correct? 21 A. Yes. 22 Q. Bodily injury and property damage 23 coverage -- 24 A. Right. 25 Q. -- is that correct?</p>
<p style="text-align: right;">Page 99</p> <p>1 additional million dollars in aggregate, and for a 2 pretty small premium, you get an extra million in 3 coverage. 4 Q. And this is all in excess of the retention 5 amounts listed to the right? 6 A. Correct. 7 Q. All right. Let's go to -- let me hand you 8 what's been marked as Exhibit 2, and ask you if you 9 can identify that for us. 10 A. Yes, it looks like the policy for the City 11 of Ferguson for '14-'15. 12 Q. Policy number GL007-14? 13 A. Correct. 14 Q. And as is it relates to the other 15 municipalities, they have a GL-type of policy 16 number, it would just be a different number? 17 A. Yes, just almost alphabetically if you 18 joined at the same time. 19 Q. Okay. Now, this particular policy 20 exception date July 1, 2014 through July 1, 2015 21 and this is -- it says public entity liability 22 insurance policy, do you see that? 23 A. Right. 24 Q. What is a public entity liability 25 insurance policy?</p>	<p style="text-align: right;">Page 101</p> <p>1 A. Correct. 2 Q. Of \$3,000,000? 3 A. Yes. 4 Q. And then personal injury and advertisement 5 liability, that's another 3,000,000; correct? 6 A. Correct. 7 Q. And then general aggregate liability of 8 \$7,500,000, do you see that? 9 A. Yes. 10 Q. What does general aggregate liability 11 mean? 12 A. It means if you, you could have claims in 13 the aggregate, your \$3,000,000 limit is an 14 occurrence limit, so one claim has a \$3,000,000 15 limit, but you could have two and a half claims of 16 that magnitude in a one-year period. 17 Q. Okay. So it's based on the number of 18 claims up to the aggregate amount of 7.5 million? 19 A. Right. And in that case, it's actually 20 total dollars, I mean, you can get to seven and a 21 half million with 500,000 claims theoretically, but 22 that's not usually the way it happens. 23 Q. It doesn't matter the number of claims, 24 the question is; how much the dollar value of the 25 claim is?</p>

Page 110

1 Endorsement N, I don't think you have been able to
2 identify it in Endorsement N, and the only thing
3 I'm trying to figure out is; is it defined in the
4 policy?
5 A. I disagree. I think if the employer's
6 legally liable in the administration of the benefit
7 plan, that's sort of the definition of the employee
8 injury, benefit injury.
9 Q. Well, I beg to differ, and let's talk
10 about that. Liability is different than injury,
11 right?
12 A. But this is telling you that you have
13 coverage if you have liability.
14 Q. No, that wasn't my question. Liability is
15 different than injury, right?
16 A. Sometimes it's the same.
17 Q. Well, if the insurer has liability, that's
18 different than the injury incurred by the insured;
19 correct?
20 A. Yes.
21 Q. All right. So liability is different than
22 injury, we can agree with that; can't we?
23 A. Okay.
24 Q. All right. I mean, is that fair?
25 A. I suppose so.

Page 111

1 Q. All right. And nowhere in this policy I
2 could find, and if you can find it, I would like
3 for you to point it out for me so we can move on,
4 do I see a definition of employee benefit injury
5 which would connote the injury to the insured;
6 correct?
7 A. I will guarantee I cannot find it at this
8 particular moment.
9 Q. Okay.
10 A. I don't know if it's in there or not.
11 Q. All right. Now, let's look at Page Bates
12 Stamp Page 31.
13 A. Okay.
14 Q. All right. And what is this schedule of
15 included/excluded operations, what does that mean?
16 A. I means that the policy covers and
17 operations that it would not cover.
18 Q. All right.
19 A. So we're excluding landfills, schools, for
20 the most part, things that don't occur in St. Louis
21 County.
22 Q. Amusement parks, if they decide to open an
23 amusement park, it wouldn't be covered?
24 A. Yes.
25 Q. Electric utility system, that's excluded,

Page 112

1 golf courses would be included, right?
2 A. Right.
3 Q. And also included would be law enforcement
4 activities, right?
5 A. Right.
6 Q. Is that right?
7 A. Yes.
8 Q. And what is law enforcement activities in
9 the context of this policy?
10 A. Really any activity related to, for the
11 most part, police liability.
12 Q. Okay. Law enforcement; correct?
13 A. Yes.
14 Q. All right. And then included is penal
15 institutions, jails, correctional facilities;
16 correct?
17 A. Correct.
18 Q. What is that?
19 A. Jails, just detention facilities.
20 Q. So anything associated with penal
21 institutions, jails and correctional facilities is
22 represented as being included as part of this
23 coverage; correct?
24 A. Right.
25 Q. Okay. Now let's turn to endorsement C on

Page 113

1 Bates Stamp Page 36. What is that?
2 A. It's essentially law enforcement coverage,
3 so it lists the things that commonly become police
4 liability claims.
5 Q. And listed there is, they define personal
6 injury to include actually -- it's an amendment of
7 the original policy, it appears, right?
8 A. It's specific to law enforcement, yes.
9 Q. Right. And as it relates to law
10 enforcement operations, it defines personal injury
11 and it defines it to include false arrest,
12 detention or imprisonment; correct?
13 A. Right.
14 Q. Is that right?
15 A. Yes.
16 Q. Malicious prosecution; correct?
17 A. Yes.
18 Q. Wrongful entry, eviction or other invasion
19 of the rights of private occupancy; correct?
20 A. Yes.
21 Q. Humiliation?
22 A. Correct.
23 Q. The publication of utterance of a liable,
24 slander or other defamatory or disparaging
25 material, publications or utterance in violation of

Page 122

1 covered, the implication being other claims might
 2 be covered; right?
 3 A. I agree.
 4 Q. All right. And Douglas Beermann, the
 5 Claims Manager, he signed this on behalf of SLAIT
 6 as the Policy Administrator for BCA; correct?
 7 A. He's the Claims Administrator; correct.
 8 Q. Okay. Now let's go then to another
 9 Exhibit, which is Ferguson Deposition Exhibit 6.
 10 And this is a letter from BCA to Mr. De'Carlon
 11 Seewood, City Manager of the City of Ferguson dated
 12 March 4, 2016, and this is a second Reservation of
 13 Rights letter from Mr. Beermann dated March 4,
 14 2016, and you were copied on that one as well; is
 15 that correct?
 16 A. Correct.
 17 Q. Do you recall discussing this letter or
 18 the prior Reservation of Rights letter with Mr.
 19 Beermann prior to it being sent to the City of
 20 Ferguson?
 21 A. I'm sure I probably discussed some of it,
 22 but I don't have a particular recollection.
 23 Q. Okay. And why do you believe you would
 24 have?
 25 A. He usually would have discussed a

Page 123

1 Reservation of Rights letter with me.
 2 Q. Why?
 3 A. Just because the City is being told that
 4 it doesn't have coverage for something.
 5 Q. All right. Okay. Now, in this more
 6 expansive Reservation of Rights letter, there's a
 7 reference to the class, what you referred to as the
 8 class action exclusion on Page 2 of the letter,
 9 which is SLAIT Page 2002; do you see that?
 10 A. Yes.
 11 Q. And that's the last paragraph, which says
 12 "last, pursuant to Endorsement H, there is an
 13 exclusion for class action suits that states", and
 14 then it quotes the language we read from the
 15 policy; correct?
 16 A. Yes.
 17 Q. And then with respect to the explanation
 18 provided by Mr. Beermann to the City of Ferguson,
 19 it says that "the complaint alleges that the named
 20 plaintiffs and members of the plaintiff class have
 21 sustained damages due to bodily injury, personal
 22 injury and/or errors and omissions injury in
 23 connection with the employment of police officers
 24 and other personnel by the City of Ferguson"; do
 25 you see that?

Page 124

1 A. Right.
 2 Q. And that explanation provided by Mr.
 3 Beermann as to the basis and the applicability of
 4 the class action exclusion relates to the fact that
 5 there was bodily injury, personal injury, errors
 6 and omission, and it involved or in connection with
 7 the employment of police officers and personnel of
 8 the City of Ferguson; correct?
 9 MR. BUCKLEY: It says "alleges", but --
 10 Q. (By Mr. Norwood) Alleges, right.
 11 A. Right.
 12 Q. And so that is the reason why Mr. Beermann
 13 is explaining to the City why there's no coverage
 14 is because of the employment of police officers and
 15 other personnel by the City of Ferguson; correct?
 16 A. It appears to be.
 17 Q. Okay. And that's all it says about the
 18 class action exclusion; right?
 19 A. Well, yes, it listed the class action
 20 exclusion.
 21 Q. Right, right, right. But in terms of
 22 explaining why there's no coverage, that's the only
 23 explanation in this Reservation of Rights letter as
 24 to why there was no coverage; right?
 25 MR. BUCKLEY: Let me object. The letter

Page 125

1 speaks for itself, it misstates the letter. The
 2 next sentence talks about "accordingly, pursuant to
 3 Endorsement H".
 4 Q. (By Mr. Norwood) Okay. "Accordingly,
 5 pursuant to Endorsement H, SLAIT has no obligation
 6 to pay any damages that may be awarded against
 7 Ferguson to the named plaintiffs and/or members of
 8 the alleged class because of bodily injury,
 9 personal injury or errors and omissions injury";
 10 correct?
 11 A. Correct.
 12 Q. Right. So the "accordingly" is talking
 13 about the explanation provided, which is the
 14 employment of police officers and other personnel;
 15 correct?
 16 A. It involves police officers, yes.
 17 Q. Right, right. And it talks about the fact
 18 that it's because of bodily injury, personal injury
 19 or errors and omission injury which are defined in
 20 the policy; correct?
 21 A. Correct.
 22 Q. All right. Let's go to Exhibit 7. Let me
 23 hand you Deposition Exhibit 7. First of all, have
 24 you seen that particular letter, which is a letter
 25 from Mr. Martin Buckley to Ronald A. Norwood dated

Page 126

1 November 27, 2017? Have you seen that letter
 2 before?
 3 A. I don't know that I have.
 4 Q. All right. Now, take a minute to read it,
 5 if you could.
 6 A. Okay.
 7 Q. All right. Now, in this particular
 8 communication from Mr. Buckley, it says that "if
 9 individual plaintiff's claims were brought simply
 10 as individuals and not as a class action, SLAIT
 11 would withdraw its Reservation of Rights", do you
 12 see that?
 13 A. Yes.
 14 Q. Is that your understanding of SLAIT's
 15 position?
 16 A. Yes.
 17 Q. That if it were individual claims, then
 18 they would withdraw the reservation?
 19 MR. BUCKLEY: It's in terms of the offer
 20 in compromise, but subject to that, go ahead.
 21 A. Yes.
 22 Q. (By Mr. Norwood) It goes further and says
 23 "instead, each individual claim would be treated as
 24 being within coverage as a claim of personal injury
 25 resulting from law enforcement operations"; do you

Page 127

1 see that?
 2 A. Yes.
 3 Q. And is that SLAIT's position?
 4 MR. BUCKLEY: Again this is an offer in
 5 compromise --
 6 MR. NORWOOD: Well, let me object, Martin.
 7 The witness is here as a Corporate Designee, that's
 8 your position, I'm asking this witness' position
 9 based upon his representation as a designee of
 10 SLAIT.
 11 MR. BUCKLEY: Well, this is beyond the
 12 scope of the notice then.
 13 MR. NORWOOD: No, it's not. Well, that
 14 asked about the denial of coverage and the reason
 15 for the denial of coverage and this relates to the
 16 denial of coverage.
 17 MR. BUCKLEY: This is not a denial of
 18 coverage. It's communication between attorneys
 19 trying to resolve the case.
 20 Q. (By Mr. Norwood) Subject to that
 21 objection. Is it your understanding that each
 22 individual claim would be treated as being within
 23 coverage as a claim for personal injury resulting
 24 from law enforcement operation?
 25 MR. BUCKLEY: As part of that settlement

Page 128

1 offer. You can answer that question.
 2 A. Yes.
 3 MR. NORWOOD: Well, I'm going to object to
 4 your speaking objection, and we will have to get a
 5 special master if you're going to be coaching this
 6 witness how to answer. You can object, but you
 7 can't tell this witness how to answer. You know
 8 that's improper, Martin. You've been in the game
 9 for 31 years, you say, and that's improper, okay,
 10 and I'm going to object, and if you do it again, (
 11 will terminate the deposition and we'll get a
 12 special master and have the judge involved, okay?
 13 MR. BUCKLEY: That was an instruction by
 14 counsel to the witness in terms of the privilege
 15 which is a matter that can be discussed. I'm
 16 telling him to limit his answer to what was
 17 offered, not to a discussion.
 18 MR. NORWOOD: No, you can't tell the
 19 witness to limit his answer under oath, okay?
 20 MR. BUCKLEY: I can.
 21 MR. NORWOOD: That is improper. That is
 22 coaching and it's borderline --
 23 MR. BUCKLEY: Go ahead. Say it.
 24 MR. NORWOOD: -- proffering incomplete and
 25 incorrect testimony.

Page 129

1 MR. BUCKLEY: Okay. I'm entitled to tell
 2 the witness not to impinge on privileged matters.
 3 MR. NORWOOD: But that's not what you
 4 instructed the witness. You didn't say anything on
 5 impinging on privileged communications. And we can
 6 read back the record and tell exactly what you did.
 7 Okay. You told him what to say as the Designee of
 8 SLAIT and that's improper.
 9 MR. BUCKLEY: First of all, it's beyond
 10 the designation of anything in your notice and this
 11 is not a coverage position that was given. You and
 12 I discussed this as a matter of resolving this
 13 case.
 14 MR. NORWOOD: Well --
 15 MR. BUCKLEY: So it's within settlement
 16 negotiations.
 17 MR. NORWOOD: Well, let me withdraw the
 18 question. Let's read what you wrote, okay, instead
 19 of talking about what you and I talked about. What
 20 you wrote on November 27, 2017, "dear, Mr. Norwood,
 21 this follows up on our telephone conversation on
 22 October 26th. I previously sent you a St. Louis
 23 Area Insurance Trust coverage position on September
 24 20, 2017. I wanted to clarify that the coverage
 25 position taken by SLAIT is based on the pleadings

Page 130

1 as they currently stand. As discussed, if the
2 pleadings would change, SLAIT's coverage position
3 would be different. In particular, if the
4 individual claims were brought simply as
5 individuals and not as a class action, SLAIT would
6 withdraw its Reservation of Rights. Instead each
7 individual's claims would be treated as being
8 within coverage as a claim for personal injury
9 resulting from law enforcement operations. They
10 would not be considered claims for bodily injury,
11 personal property, advertising injury or errors and
12 omissions. I hope this clarification is helpful".
13 It doesn't say anything about an offer, okay, for
14 the record. "Let me know if you have any
15 questions". All right.
16 MR. BUCKLEY: "Let me know if you have any
17 questions" is part of the actual letter, not
18 comment by counsel.
19 MR. NORWOOD: So the letter speaks for
20 itself.
21 Q. (By Mr. Norwood) This letter is a letter
22 that represents SLAIT's position as you understand
23 it; correct?
24 MR. BUCKLEY: Subject to the instructions,
25 go ahead.

Page 131

1 A. Correct.
2 Q. (By Mr. Norwood) All right.
3 A. I mean, I think if these claims were
4 individual claims, I don't know why we wouldn't
5 cover them --
6 Q. That's right.
7 A. -- if they were presented in that fashion.
8 Q. Great. Understood. Now, let me hand you
9 what's been marked as Ferguson Deposition Exhibit 9
10 and ask you if you've seen that document before.
11 A. Yes.
12 Q. Okay. What is this document?
13 MR. BUCKLEY: Let me get a copy of it.
14 A. It's a status report prepared by Doug
15 Beermann, and he would report on claims that he
16 thought had a larger than average total incurred
17 value.
18 Q. (By Mr. Norwood) Okay. Is that the only
19 time he would prepare such reports?
20 A. Yes.
21 Q. All right. And do you know what the
22 average value would be which would trigger such a
23 report?
24 A. Not really. Part of it would be when a
25 claim is more complicated, which these obviously

Page 132

1 are.
2 Q. Okay. Let's go to the second page under
3 "remarks". It says "due to the nature of this
4 lawsuit, something we have not encountered before
5 for SLAIT, we needed to bring this matter to the
6 attention of The Board". Do you see that?
7 A. Yes.
8 Q. All right. And this would have been as of
9 March 26th, 2016; is that correct?
10 A. Yes, it looks like it.
11 Q. Do you know what Mr. Beermann meant when
12 he said it was something that SLAIT had never
13 encountered before?
14 A. I think just the type of claim it is.
15 Q. You mean type of claim in terms of being a
16 class action --
17 A. Yes.
18 Q. -- or type of claim in terms of dollar
19 value?
20 A. Being a class action.
21 Q. All right. And so from this, at least,
22 it's suggesting that this is the first instance
23 where there's been this type of class action that
24 was brought to the attention of The Board; correct?
25 A. Yes.

Page 133

1 Q. All right. It goes further and says "when
2 the suit was first filed, allegations in the
3 complaint on behalf of several plaintiffs were
4 identified as potentially invoking coverage for at
5 least some of the plaintiffs' claims, and the suit
6 was answered and defended by SLAIT defense counsel.
7 Over the course of the past year, the scope of the
8 case grew and the predominant focus of the case
9 became plaintiffs' class action claim. Concern
10 grew when a similar suit was recently settled for
11 what is believed to be a substantial amount of
12 money. Since mediation is now scheduled, we have
13 instructed attorney Kreihbiel to file a declaratory
14 judgment suit to determine coverage. We do not
15 believe SLAIT policy covers class action suits".
16 Do you see that?
17 A. Yes.
18 Q. Okay. Now, let's go -- let me hand you
19 what's been marked as Deposition Exhibit 10 and ask
20 you if you can identify that for us.
21 A. It looks like it was a mediation.
22 Q. Let me back up. First of all, have you
23 seen this document before?
24 A. I do not recall it, but I have no idea.
25 Q. Is the letter from Mr. Douglas Beermann?

Page 138

1 A. Correct.

2 Q. And who gets this report? Who does it go

3 to?

4 A. The Board.

5 Q. All right. So this is a report to The

6 Board?

7 A. Yes.

8 MR. BUCKLEY: Exhibit 10 is what he was

9 asking about.

10 WITNESS: Oh, the letter.

11 A. I don't know where it went other than, it

12 almost looks like he did it to the file, to me.

13 MR. BUCKLEY: It's weird, it's to BCA.

14 A. I think he directed it to his file.

15 Q. (By Mr. Norwood) Okay. Who would

16 typically get copies of the reports that go to the

17 file at Bierman-Condray?

18 A. Nobody.

19 Q. I'm sorry? Nobody?

20 A. Nobody.

21 Q. So he just puts it away and that's the end

22 of it?

23 A. Right.

24 Q. All right. Then we go back to Exhibit 11,

25 and the last sentence says "with the mediation now

Page 139

1 scheduled, we believe that a DJ suit to determine

2 coverage may be necessary"; correct?

3 A. Correct.

4 Q. And so this is Mr. Dunn advising Mr.

5 Beermann that Mr. Dunn and his firm believes that

6 Ferguson should be sued in a Declaratory Judgment

7 action to determine coverage; correct?

8 A. It does appear that he's indicating we

9 need to find out what that exclusion means in the

10 courts.

11 Q. Well, what he says is "we", meaning Mr.

12 Dunn and some other folks there at his firm, right?

13 "We believe a DJ suit to determine coverage may be

14 necessary", right? That's what he says?

15 A. That's what it says.

16 Q. And that's what he tells Mr. Beermann, who

17 is the administrator for SLAIT, correct?

18 A. Claims Administrator, yes.

19 Q. At a time when he's acting as counsel for

20 the City of Ferguson selected by SLAIT to defend

21 the City of Ferguson; correct?

22 A. Correct.

23 Q. Okay. Let's look at Exhibit 12. So take

24 a look at Exhibit 12.

25 MR. BUCKLEY: Can I see it first?

Page 140

1 Q. (By Mr. Norwood) It looks like you were

2 copied on it, and so I want you to take a look at

3 it, I'm going to ask you some questions about it.

4 A. Okay.

5 Q. You have seen that letter before, I take

6 it?

7 A. I assume so.

8 Q. I'm sorry. The series of e-mails before

9 you, you appear to be copied on the first page,

10 1958 is an e-mail --

11 A. Right.

12 Q. -- sent on Wednesday, February 3rd, 2016

13 by Peter Dunn to Mr. Beermann and you're copied on

14 that; correct?

15 A. Yes.

16 Q. And the subject is "here are the Great

17 American contacts". Do you see that?

18 A. Right.

19 Q. All right. And then in the next Bates

20 Stamp Page, 1959, that's an e-mail from Peter Dunn

21 dated Wednesday, February 3rd, 2016 at 2:19 p.m. to

22 Douglas Beermann, Steve Wicker, it says "notice to

23 State Auto and Great American re: Fant case". Do

24 you see that?

25 A. Yes.

Page 141

1 Q. And then in his e-mail addressed to you

2 and Mr. Beermann, he says "Doug and Steve, I spoke

3 with Doug today about sending a letter to the prior

4 SLAIT re-insurance carrier for 2010 through 2015

5 about the Fant case. Below please find my draft of

6 the letter Doug might send putting State Auto and

7 Great American on notice of the claim and the

8 upcoming referral to mediation. Attached is a copy

9 of the complaint and copies of the different

10 re-insurance agreements from 2010 to 2015. I know

11 Great American's Ms. Lofness is on notice about

12 Fant, but I don't think it would hurt to formalize

13 the notice pursuant to the re-insurance agreements.

14 Please let me know if you have any suggestions or

15 corrections you recommend". That's what it says;

16 correct?

17 A. Yes.

18 Q. And then there's a draft letter to State

19 Automobile Mutual Insurance on behalf of SLAIT to

20 the re-insurance carrier?

21 A. Correct.

22 Q. Or to a potential re-insurance carrier;

23 correct?

24 A. Yes.

25 Q. Now, in this context, is Mr. Dunn

<p style="text-align: right;">Page 142</p> <p>1 representing and advising SLAIT with respect to 2 this re-insurance coverage dispute? 3 MR. BUCKLEY: Let me object to the 4 question as far as it assumes there's a coverage 5 dispute, but go ahead and answer. 6 A. I don't think so. He's just telling him 7 to put any excess carrier that you might be 8 involved in this on notice since it covers quite a 9 bit of time, et cetera, and it would appear we had 10 two excess carriers during that time. 11 Q. (By Mr. Norwood) All right. And did any 12 of the excess carriers step up and agree to pay the 13 excess in this case? 14 A. They do not agree to do that. They take 15 notice of the case, they don't give you coverage 16 opinions, they have the case and they're -- 17 Q. I'm sorry? 18 A. They're on notice, the re-insurance 19 agreement basically tells you when you need to 20 report things. 21 Q. But in this context, is Mr. Dunn 22 representing SLAIT or is he representing the City 23 of Ferguson? 24 A. I think he was just reminding a SLAIT 25 person that they should make sure they've done</p>	<p style="text-align: right;">Page 144</p> <p>1 is; do you know if the City of Ferguson received a 2 copy of this communication? 3 A. I do not know. 4 Q. Let me finish. And this draft letter that 5 was sent to you and Mr. Beermann in February of 6 2016? 7 A. I do not know. 8 Q. Okay. All right. Let's go to the next 9 page, and parenthetically it says "the Great 10 American Insurance Company has this coverage from 11 7/1/'12 to present. I think the same letter should 12 be sent to them. Andrew Kay is the person 13 identified in their contracts. I also see in their 14 policies that notices are to be sent by certified 15 mail and to be sent to Swett and Crawford. They 16 have a lot of locations, but their main office is 17 in Los Angeles"; correct? 18 A. Correct. 19 Q. So essentially he's basically providing 20 advice as to how it should be sent, the method by 21 which it should be sent based on his review of the 22 policy; correct? 23 A. Yes. 24 Q. Then he's got another draft of the letter 25 to Great American; correct?</p>
<p style="text-align: right;">Page 143</p> <p>1 this. I mean, in a way he's representing the City 2 of Ferguson because if we don't put the excess 3 carrier on notice, we've got a lot less than 4 \$3,000,000 in coverage. 5 Q. Okay. And so do you know if the City of 6 Ferguson received any communication of this sort? 7 A. They wouldn't normally. 8 Q. I'm sorry? 9 A. They would not. 10 Q. They did not? 11 A. I don't know if they did or not, but 12 normally they wouldn't. 13 Q. Right. So they wouldn't, so the City of 14 Ferguson wouldn't know anything about this 15 communication, right? 16 A. Well, they should assume that it's been 17 communicated to the excess carrier when it reaches 18 a certain threshold. 19 Q. I'm sorry, they should assume what? 20 A. If we don't report the claims to the 21 excess carrier, they won't cover it and I think 22 most of the members know that, so yes, when they 23 have a certain kind of case, it's reported to the 24 excess carrier. 25 Q. I understand that, but my question to you</p>	<p style="text-align: right;">Page 145</p> <p>1 A. Correct. 2 Q. And do you know if, in fact, those letters 3 and the form prepared by Mr. Dunn were, in fact, 4 prepared by Mr. Beermann and sent to those 5 insurance carriers? 6 A. I don't recall. 7 Q. Let me hand you what's been marked as 8 Exhibit 13 and ask you if you can identify that for 9 us. Have you seen Ferguson Exhibit 13 before? 10 A. It looks like I have. 11 Q. Because you're reflected as being copied 12 on that? 13 A. Yes. And it looks like I'm supposed to be 14 sending the letter. 15 Q. This relates to the Brown case; correct? 16 A. Correct. 17 Q. And it's dated e-mail from Mr. Dunn to Mr. 18 Wicker and Mr. Beermann dated Monday, September 7, 19 2015 at 2:13 p.m.; correct? 20 A. Correct. 21 Q. And here it looks like Mr. Dunn has 22 provided a draft of a proposed letter to send to 23 coverage counsel for Great American; correct? 24 A. Yes. 25 Q. And so he's preparing again a letter to be</p>

Page 146

1 sent to coverage counsel for Great American in
2 response to a letter they submitted disputing
3 coverage for the Brown case; correct?
4 A. Correct.
5 Q. And in that regard, he is acting on behalf
6 of SLAIT in terms of obtaining the re-insurance
7 coverage; correct?
8 A. What we were really doing was, this is the
9 only case I ever remember this, they wrote us a
10 long lengthy letter with some silly statements like
11 "the officer meant to kill him, not until after
12 everything else has happened does he shoot him", so
13 we were responding to that. And if you notice
14 there was supposed to be a meeting that they had
15 canceled, so we thought we would at least get him
16 to respond.
17 Q. Well, in preparing this letter and the
18 prior letters to these re-insurance carriers, it's
19 in SLAIT's interests for that re-insurance to kick
20 in; correct?
21 A. Correct.
22 Q. Because SLAIT is on the hook for the full
23 three million, right?
24 A. Right.
25 Q. So regardless of what happens to the

Page 147

1 re-insurer, it doesn't really impact the City of
2 Ferguson; right?
3 A. Unless we decided to decline the claim for
4 the same reasons that the re-insurance carrier
5 declined it.
6 Q. Right. And you didn't do that in this
7 case as it relates to the Brown case; correct?
8 A. Correct.
9 Q. You stepped up and you ultimately settled
10 that claim on behalf of the City; correct?
11 A. Correct.
12 Q. And you're currently in a fight with Great
13 American about the re-insurance; correct?
14 A. No.
15 Q. You've resolved that with the --
16 A. We never had a fight. They sent us a
17 check very quickly.
18 MR. BUCKLEY: You're thinking of the Moore
19 case.
20 MR. NORWOOD: The Moore case, right.
21 Q. (By Mr. Norwood) So you're familiar with
22 the Moore case?
23 A. Yes.
24 Q. And was Great American re-insurer on that
25 one?

Page 148

1 A. That's the problem. We either sent it to
2 the wrong re-insurer, and I guess -- I guess the
3 answer is yes, they probably were the re-insurer on
4 that case, but State Auto was the company that was
5 informed.
6 Q. And so they were not timely notified and
7 that's their basis for denying?
8 A. That's their basis.
9 MR. BUCKLEY: We're challenging that, just
10 so we're clear.
11 MR. VIETH: Ron, before you change topics,
12 MJ's got to leave. Can we take a very short break?
13 I'm going to talk to him for a couple of.
14 MR. NORWOOD: Let's do that.
15 (Recess)
16 (Mr. Voss no longer present)
17 Q. (By Mr. Norwood) Let's go back on the
18 record. Let me hand you what's been marked as
19 Exhibit 14 and ask you if you've seen that before.
20 A. I don't know that I would have seen it,
21 it's a pretty standard "we've assigned this
22 attorney to this claim."
23 Q. Well, I believe before you had indicated
24 that typically you would receive or review or
25 discuss with Mr. Beermann Reservation of Rights

Page 149

1 letters, particularly with complicated cases, isn't
2 that a fair statement? And this would have been a
3 complicated case?
4 A. This really wasn't that complicated of a
5 case. It's complicated but not from a coverage --
6 Q. Complicated from a liability standpoint?
7 A. Yes.
8 Q. And it relates to Michael Brown case, it's
9 a coverage letter dated May 27, 2015 in the Michael
10 Brown case; correct?
11 A. Correct.
12 Q. And in this case, the only reservation
13 appears to be punitive damages; correct?
14 A. Yes.
15 Q. Other than that, there was no denial of
16 coverage from the standpoint of the Michael Brown
17 case; correct?
18 A. Correct.
19 Q. Then we go to Exhibit 15, and I believe
20 you alluded to this, but let's take a look at
21 Exhibit 15, which for the record is a letter dated
22 August 27, 2015 from Meagher & Geer, I believe is
23 the name of the firm, on behalf of Great American
24 Insurance Company?
25 A. Correct.

Page 150

1 Q. And that's the longwinded letter that you
2 had referred to before?
3 A. Yes.
4 Q. And this was a Reservation of Rights
5 letter from Great American as it relates to Michael
6 Brown?
7 A. I don't even know if I would term it as a
8 Reservation of Rights letter, it's more like
9 "here's the way we read your policy".
10 Q. Well, let's see. It talks about the fact
11 that they're not responsible for anything beyond
12 what SLAIT would be responsible for in its policy;
13 correct?
14 A. Let's see. Yes.
15 Q. All right. And then it says basically
16 they're reserving the right to amend or revise this
17 position based upon additional information;
18 correct?
19 A. Yes.
20 Q. All right. And they really -- if you flip
21 through it, they take issue with certain of the
22 claims with respect to whether or not there is
23 coverage, right?
24 A. Right.
25 Q. And then we get to Page 8, which is Bates

Page 151

1 stamped Page 567, they talk about "no coverage
2 potentially available for Amended Count II". Then
3 on the next page "no coverage available for Count
4 IV", and then on the following page, Page 11, which
5 is Bates Stamped Page 570, "no coverage likely for
6 Count V". The next page, Page 12, Bates Stamped
7 571, "no coverage for Count VI". And the next
8 page, 13572, "no coverage for Count VII"; correct?
9 A. Right.
10 Q. And so they took the position at least
11 questioning the coverage, but you said ultimately
12 though, at the end of the day when the case was
13 settled, they wrote a check without any issues?
14 A. Yes. We send them basically a proof of
15 how much we paid on the claim and they paid
16 everything that was in excess of the retention.
17 Q. Okay. All right. Let me hand you what's
18 been marked as Exhibit 16, and that is, for the
19 record, a letter dated September 16, 2015 from
20 Bierman-Condray, which is a report on the Brown
21 case; correct?
22 A. Yes.
23 Q. And you have seen this document before?
24 A. Yes, I think I have.
25 Q. All right. And on this one, Mr. Beermann

Page 152

1 is taking the position that there is coverage,
2 right?
3 A. Right.
4 Q. And he's taking issue with the assessment
5 of the excess carrier with respect to there may not
6 be coverage; correct?
7 A. Correct.
8 Q. And that would all be under -- the
9 assessment is based upon the Brown case as it
10 relates to whether or not there is coverage under
11 the SLAIT policy that's at issue in this case;
12 correct?
13 A. Correct.
14 Q. Let me hand you what's been marked as
15 Ferguson Deposition Exhibit 17 and ask you if
16 you've seen that report before in the Michael Brown
17 case dated September 4, 2015 from BCA, Inc.
18 A. I don't think I've seen this. This
19 appears to be another thing that he was putting in
20 his file, but I was obviously at the meeting.
21 Q. The meeting being a meeting in which you,
22 Peter Dunn and Mr. Beermann were in attendance?
23 A. Yes.
24 Q. And there was a discussion, according to
25 the letter, it says there was a discussion and the

Page 153

1 discussion related to deciding the best possible
2 way to respond to this letter of August 27, 2015
3 from Great American Insurance attempting to explain
4 in their estimation under the policy why no
5 coverage was afforded to the City of Ferguson and
6 Police Officer Wilson, correct?
7 A. Correct.
8 Q. It says "we reviewed the letter in great
9 detail", and the "we" is referring to the three of
10 you; right?
11 A. Right.
12 Q. And that would include Mr. Dunn; correct?
13 A. Correct.
14 Q. "And each of us came with the same
15 conclusion that it was not factually correct in
16 their explanation as to why they do not feel their
17 excess coverage is in force for this incident";
18 correct?
19 A. Correct.
20 Q. So, the three of you were strategizing as
21 to how to respond to the letter from Great American
22 as related to its position being proffered with
23 respect to questions of coverage under the Great
24 American re-insurance policy; correct?
25 A. Correct.

Page 154

1 Q. And we go to the next page, Bates stamped
2 653, it's Page 2, it says "needless to say, we have
3 great concerns about this type of thinking on the
4 coverage issue as we move forward in the defense of
5 the case", the "we" being the three of you;
6 correct?
7 A. Right.
8 Q. And then he says in the next paragraph "it
9 was decided that we will immediately respond to
10 this letter, which will be done by Mr. Steve Wicker
11 advising them we do not in any way, shape or form
12 concur with their evaluation. We fully intend on
13 having their coverage available on this loss". Do
14 you see that?
15 A. Correct.
16 Q. Do you recall in response, or consistent
17 with this discussion you had with Mr. Dunn and Mr.
18 Beermann, do you recall advising them in accordance
19 with what is referenced here?
20 A. Yes.
21 Q. And how did you advise them?
22 A. We were just flabbergasted with Great
23 American's coverage letter and this, if this isn't
24 the law enforcement claim, then there's no such
25 thing as a law enforcement claim, so we wanted to

Page 155

1 make sure we responded to them in some fashion.
2 Q. Right. And so I guess what I'm trying to
3 figure out is; did you send a letter? An e-mail?
4 A. I think we sent a letter.
5 Q. Do you have a copy of that letter
6 somewhere? Because I don't know if we've seen
7 that.
8 A. I think you have it. I thought I saw it
9 on one of these.
10 MR. BUCKLEY: I think it was, there was a
11 draft of it.
12 MR. NORWOOD: Oh, okay.
13 A. I don't know if I have a copy or not.
14 Q. (By Mr. Norwood) Of the actual letter
15 that would have been written?
16 A. Yes. Because I tend not to have claims
17 files, that's what BCA keeps.
18 Q. So if the letter was still around, you
19 think it would be in this claims file?
20 A. Yes.
21 Q. Okay. Let me hand you what's been marked
22 as Ferguson Deposition Exhibit 18 and ask you if
23 you've seen that before?
24 A. Yes.
25 Q. All right. And this is a series of

Page 156

1 e-mails that included Mr. Dunn, you and Mr.
2 Beermann.
3 A. Right.
4 Q. And it looks like Mr. -- well, it looks
5 like you are forwarding to Mr. Dunn and Mr.
6 Beermann an e-mail communication from Ms. Carole
7 Lofness at Great American; correct?
8 A. Yes.
9 Q. And in your communication to Mr. Dunn and
10 Mr. Beermann, you say "interesting, we need a
11 coverage discussion on a classic excessive force
12 claim. Peter, any unusual claims in petition, in
13 your opinion? Steve". And then Mr. Dunn
14 responds -- your e-mail was dated July 28, 2016 and
15 his response is dated the same day at 11:56 a.m.
16 It says "well, nothing I am aware of that invokes
17 any possible coverage problems, only legal
18 problems", do you see that?
19 A. Yes.
20 Q. Okay. Let me hand you what's been marked
21 as Ferguson Deposition Exhibit 19 and ask you if
22 you've seen that document before.
23 A. Yes, I believe so.
24 Q. All right. Now, this relates to the Fant
25 case; correct?

Page 157

1 A. Yes.
2 Q. And it also talks about the Webb case --
3 well, actually three cases, Thomas versus St. Ann,
4 Webb versus Maplewood; correct?
5 A. Yes.
6 Q. And is this the -- this relates to Allied
7 World coverage for those three municipalities;
8 correct?
9 A. Right.
10 Q. And initially Allied World took the
11 position that it would not be providing any
12 coverage in the matter, this would be with respect
13 to public employee coverage?
14 A. It's the public officials' policy.
15 Q. I'm sorry. Public officials' policy. And
16 initially, Allied World declined coverage in the
17 matter; correct?
18 A. Correct.
19 Q. And then ultimately, they changed their
20 mind, at least, and decided their willingness to
21 negotiate or attempt to negotiate a settlement; is
22 that a fair statement?
23 A. It's not what I would have understood.
24 Q. Well, let's take a look at the letter.
25 A. Yes.

Page 158

1 Q. It says, second paragraph, it says "Allied
2 World continues to believe that the allegations
3 raised in these lawsuits triggers significant
4 coverage issues under the respective Allied World
5 policies. Nonetheless, Allied World has concluded
6 it will accept these matters for coverage under the
7 respective policies issued to each city subject to
8 a Reservation of Rights. This includes the Fant
9 versus Ferguson matter for which Allied initially
10 denied coverage"; correct?
11 A. Okay. Yes.
12 Q. All right. And essentially, they're
13 taking the position that the Allied World policy
14 would be excess of the SLAIT policy; correct?
15 A. Right.
16 Q. And essentially, they're asking for
17 SLAIT's position regarding settlement and the fact
18 that they would be amenable to settlement
19 negotiations; correct?
20 A. Yes.
21 Q. All right. And so then at this juncture,
22 though, SLAIT has not expressed a willingness to
23 engage in those settlement negotiations with Allied
24 World; correct?
25 A. I don't think they're saying that.

Page 159

1 They're basically saying they're going to be
2 excess, so if there are settlement negotiations
3 between SLAIT and the plaintiffs, then they'll talk
4 about what money they might contribute, is what I
5 think.
6 Q. Right. Right. And you understand then
7 the excess -- the demand in this case, according to
8 the communication, was 9.5 million dollars; right?
9 A. I've seen that, yes.
10 Q. Right. That's in this e-mail, right? It
11 talks about received a recent demand of 9.5
12 million; right?
13 A. Okay. Yes.
14 Q. All right. And actually 9.5 represents
15 the understanding that there would be total
16 coverage under the SLAIT policy of 7.5 million and
17 2,000,000 under the Allied World policy; correct?
18 Up to?
19 A. I don't know what the folks who made the
20 demand think. I would think that the SLAIT policy
21 probably only provides 3,000,000.
22 Q. Right. Well, I understand. But under the
23 SLAIT policy, though, there is an aggregate amount,
24 right? And what was that aggregate amount? I
25 think we talked about that.

Page 160

1 A. It's 7.5.
2 Q. That would be the aggregate best scenario?
3 A. Right. But this is one claim.
4 Q. I understand. I understand. And I'm not
5 saying I agree with the position, I'm just trying
6 to -- the aggregate claim amount would be 7.5
7 million, assuming you could tap into the aggregate,
8 and then the Allied World you understood to be
9 2,000,000; is that right?
10 A. Probably, yes. I would have to check.
11 That sounds like the way that plaintiffs would
12 probably put it together.
13 Q. Okay. Let me hand you what's been marked
14 as Exhibit 21 and ask you if you've seen that
15 document before.
16 A. I believe I have.
17 Q. Okay. And this relates to a case called
18 Quinton Thomas versus City of St. Ann case.
19 A. Correct.
20 Q. And is that a class action case similar to
21 the Fant case?
22 A. Yes.
23 Q. And this reflects the SLAIT's coverage
24 position as it relates to the City of St. Ann's
25 claim?

Page 161

1 A. Yes.
2 Q. And do you know if that case is still
3 pending?
4 A. The case is still pending.
5 Q. All right. Let me hand you what's been
6 marked as Exhibit 22, which is a letter from BCA
7 dated January 17, 2017 in the Cecelia Roberts Webb
8 case versus City of Maplewood. Have you seen that
9 before?
10 A. I think I have, yes.
11 Q. All right. The Reservation of Rights
12 letter for the Webb case involved a claim that's
13 similar to the Fant claim?
14 A. Exactly.
15 Q. And similar to the City of St. Ann claim
16 that we talked about; is that correct?
17 A. Yes. Yes.
18 Q. And it talks about Brinker & Doyen being
19 retained to represent Webb and the City of St. Ann;
20 correct?
21 A. Correct.
22 Q. And Brinker & Doyen was also required to
23 come in and represent City of Ferguson; correct?
24 A. When the Pitzer Snodgrass folks were
25 disqualified.

Page 162

1 Q. And why were the Pitzer Snodgrass folks
2 disqualified?
3 A. I believe they hired someone from Arch
4 City Defenders and that was brought to the court
5 and they ruled they should be disqualified.
6 Q. And is it -- you understand also that
7 there's currently a dispute between the Dunn firm
8 and SLAIT regarding fees that were paid that SLAIT
9 believed should not have been paid; correct?
10 A. Correct.
11 Q. And that dispute is still pending?
12 A. "Pending", that's the word.
13 Q. All right. Let me hand you what has been
14 marked as Plaintiff's Exhibit 23 and ask you if you
15 can identify that for us.
16 A. It appears to be another item that Mr.
17 Beermann wrote to the file.
18 Q. And it's a report, for the record, Exhibit
19 23 is a report from Mr. Beermann dated December
20 3rd, 2015 referring to the Tracey White case;
21 correct?
22 A. Correct.
23 Q. And this is a suit brought, it looks like,
24 brought against City of Ferguson and City of
25 Maryland Heights?

Page 163

1 A. Yes, I think these were, there were
2 several demonstrators who filed suit. I guess, if
3 I remember correctly, they originally named
4 Ferguson, then because there were police officers
5 in Ferguson from nearly every entity in the County,
6 I think some of these suits became St. Louis County
7 lawsuits because the arresting officer was a County
8 officer and it would appear that at least one of
9 them had Maryland Heights officers were sued.
10 Q. Okay. Let me hand you what's been marked
11 as Exhibit 24 and ask you if you've seen that
12 before.
13 A. For the record, Ferguson Exhibit 24 is a
14 letter dated November 21st, 2014 to SLAIT care of
15 Mr. Steven Wicker by Meagher -- how do you
16 pronounce the firm?
17 MR. BUCKLEY: I think it's Meagher.
18 A. I don't know.
19 Q. (By Mr. Norwood) It's M-E-A-G-H-E-R, and
20 Geer, G-E-E-R. And that relates to the Tracey
21 White case and the position being staked by Great
22 American Insurance Company as it related to that
23 claim; correct?
24 A. It does appear that way.
25 Q. Right. All right. Let me hand you what's

Page 164

1 been marked as Exhibit 25, and do you recognize
2 Exhibit 25?
3 A. I can't tell whether this is about Michael
4 Brown or Tracey White -- oh, it says Tracey White
5 on the back -- well, no. That's -- I really don't
6 know which one it's for.
7 Q. If the --
8 A. The letter from Dunn is about Tracey
9 White, so I assume maybe this is Tracey White.
10 Q. Yeah. Well, okay. Let's assume it's
11 Tracey White, it's not clear at least in the face
12 of the letter, but it says "attached is a coverage
13 opinion", this is what you say to Mr. Dunn; right?
14 A. Yes.
15 Q. "Attached is a coverage opinion from the
16 excess carrier relative to our only current
17 Ferguson lawsuit. Peter, please review and let me
18 know what you think. I'm particularly interested
19 in what you think the limits paragraph on Page 2 is
20 saying. Does SLAIT have 2.5 million of coverage
21 for each and every separate occurrence? It sort of
22 reads like that". Do you see that?
23 A. Yes.
24 Q. "The three of us should get together soon
25 to discuss interactions with the carrier. They

Page 165

1 seem to be unhappy with some of our responses to
2 this point. Steve". Do you see that?
3 A. Yes.
4 Q. And here you're asking Mr. Dunn to provide
5 his legal opinion regarding certain information
6 contained in that letter from Great American's
7 counsel; correct?
8 A. Yes.
9 Q. And do you recall any follow-up meetings,
10 discussions, with Mr. Dunn about his assessment --
11 A. Yes.
12 Q. -- of the coverage opinion from Great
13 American?
14 A. I don't really, but it was basically the
15 same letter that they had written about Michael
16 Brown, which makes it kind of silly from this
17 standpoint because if these aren't law enforcement
18 liability claims, then there are no such thing as
19 law enforcement liability claims.
20 Q. Okay. And let me hand you what's been
21 marked as Plaintiff's Exhibit 26 -- I'm sorry.
22 Ferguson Deposition Exhibit 26. And do you recall
23 seeing that particular coverage communication from
24 BCA on behalf of SLAIT regarding the Tracey White
25 case?

<p style="text-align: right;">Page 166</p> <p>1 A. No. This was -- it looks like another one 2 where he's just talking about punitive damages, and 3 frankly, these particular suits were nothing like 4 some of the suits we face. These were people that 5 weren't, at least there were no major injuries, et 6 cetera, et cetera. 7 Q. Right. Right. Right. But the nature of 8 the claims related to arrests and things of that 9 sort? 10 A. Correct. 11 Q. What are alleged to be false arrests, 12 right? 13 A. Right. 14 Q. Okay. Let me hand you what's been marked 15 as Exhibit 27 and ask you if you can identify that 16 document and the attachment? 17 A. Oh, this is the one where they held a news 18 conference in front of federal court, I think. 19 Q. And this relates to the Tracey White case; 20 right? 21 A. Yeah, declaring they were going to sue. 22 Q. Okay. And attached to that is the copy of 23 the complaint; correct? 24 A. Yes. 25 Q. All right. Let me hand you what's been</p>	<p style="text-align: right;">Page 168</p> <p>1 Deposition Exhibit 31, it talks about you're 2 speaking on behalf of SLAIT regarding "the 3 production of documents provided to counsel for the 4 City of Ferguson in response to Request for 5 Production of Documents including efforts made to 6 locate documents responsive to the document 7 request". Have you been involved in the process of 8 attempting to gather and locate documents 9 responsive to the City of Ferguson's request? 10 A. Only in the sense that I authorized the 11 claims provider and Mr. Buckley to produce the 12 information. 13 Q. The claims provider being which claims 14 provider? 15 A. At this time, I think you were all with 16 CCMI because they had all the files. 17 Q. It's your understanding that BCA turned 18 over the claims files relating to the City of 19 Ferguson and other municipalities to CCMI? 20 A. Yes, they should have turned over all the 21 files. 22 Q. Okay. So to the extent that there are 23 files, claims files, available, those would be in 24 the possession of CCMI, is your understanding? 25 A. Yes, they should be.</p>
<p style="text-align: right;">Page 167</p> <p>1 marked as Exhibit 28 and ask you if you are 2 familiar with that document. 3 A. I don't think I've ever seen this lawsuit. 4 Q. Okay. You're familiar with this Powell 5 versus the City of St. Ann case though? 6 A. Yes, I am. 7 Q. And you understand this was a class action 8 complaint? 9 A. I didn't understand it at one time, but 10 I've been told since it's a class action claim. 11 Q. And ultimately, you understand there was a 12 settlement of that case that was paid by SLAIT in 13 the amount of 10,000? 14 A. Yes, I authorized the 10,000. 15 Q. All right. And let me hand you what's 16 been marked as Ferguson Deposition Exhibit 29 and 17 ask you if that is the settlement payment for that 18 particular matter? 19 A. I assume that it is since that's the 20 indication made, and Steve Garrett is the attorney 21 for the City of St. Ann who I was told worked out 22 the settlement. 23 Q. Okay. All right. I think at this time -- 24 let me just double check one thing. Item 16 on the 25 Deposition Notice, which is marked as Ferguson</p>	<p style="text-align: right;">Page 169</p> <p>1 Q. Are you aware of any other files that you 2 might be in possession of that might be responsive 3 to that request? 4 A. No. 5 Q. All right. I think that's all the 6 questions I have at the moment. 7 MR. VIETH: Can we go off the record for 8 just a second? 9 (Off the record) 10 EXAMINATION 11 QUESTIONS BY MR. VIETH: 12 Q. Mr. Wicker, my name is Erich Vieth. I'm 13 an attorney representing the folks who brought the 14 original underlying suit. I work alongside of Arch 15 City Defenders and luckily most of my questions 16 were asked already. You might hear some pauses 17 from me because I don't want to re-ask because it's 18 already been asked. So I just thought we could 19 talk a little more about your duties and the fact 20 that you, I assume, are pretty good or at least 21 experienced in looking over insurance policies and 22 determining what coverages and exclusions exist in 23 the various policies. 24 A. I usually have an idea, but I've often 25 been surprised by what judges say.</p>

<p style="text-align: right;">Page 174</p> <p>1 Q. What is an exdorsement?</p> <p>2 A. A typo.</p> <p>3 Q. Okay. Is there any word that you know of</p> <p>4 that is the word "exdorsement"? Is that a real</p> <p>5 word?</p> <p>6 A. Not that I'm aware of.</p> <p>7 Q. Is it important for an insurance company</p> <p>8 to draft its insurance policy to be easy to</p> <p>9 understand?</p> <p>10 MR. BUCKLEY: Are you taking his</p> <p>11 deposition of him individually right now?</p> <p>12 MR. VIETH: No.</p> <p>13 MR. BUCKLEY: Which one does this apply</p> <p>14 to?</p> <p>15 MR. VIETH: This refers to -- let me pull</p> <p>16 it out.</p> <p>17 MR. NORWOOD: It's Exhibit 31, if you have</p> <p>18 that.</p> <p>19 MR. BUCKLEY: Yes, I have it here.</p> <p>20 MR. VIETH: I would suggest that it would</p> <p>21 be Numbers 4 and 13.</p> <p>22 MR. NORWOOD: And 8.</p> <p>23 MR. BUCKLEY: Go ahead and re-ask the</p> <p>24 question.</p> <p>25 MR. VIETH: Would the court reporter read</p>	<p style="text-align: right;">Page 176</p> <p>1 at that Endorsement H again, Bates Page 41?</p> <p>2 A. Yes.</p> <p>3 Q. And tell me all of your reasons for your</p> <p>4 believe that H excludes coverage for this class</p> <p>5 action.</p> <p>6 A. Because it's --</p> <p>7 MR. BUCKLEY: Let me object. It calls for</p> <p>8 a legal opinion. Subject to that, go ahead.</p> <p>9 A. Because it says "exclusion, class action</p> <p>10 suits".</p> <p>11 Q. (By Mr. Vieth) Is that your only reason?</p> <p>12 A. Yeah.</p> <p>13 Q. Okay. So it does not say "exclusion, all</p> <p>14 class action suits", does it?</p> <p>15 A. It doesn't say "some" either.</p> <p>16 Q. All right. And so would it be reasonable</p> <p>17 to read what follows instead of looking at the</p> <p>18 title of any particular endorsement in this policy</p> <p>19 or any policy?</p> <p>20 A. Yes.</p> <p>21 Q. All right. So this title "exclusion -</p> <p>22 class action suits", isn't it true that that could</p> <p>23 refer to some class action suits or perhaps all</p> <p>24 class action suits, depending upon the context?</p> <p>25 MR. BUCKLEY: Objection. Calls for a</p>
<p style="text-align: right;">Page 175</p> <p>1 the question back, please?</p> <p>2 (Whereupon, the requested portion of the</p> <p>3 transcript was read for the record)</p> <p>4 MR. BUCKLEY: I'm going to object to that</p> <p>5 as calling for a personal opinion or perhaps an</p> <p>6 opinion of law. Subject to that, I'm going to let</p> <p>7 him answer.</p> <p>8 A. Yes.</p> <p>9 Q. (By Mr. Vieth) As a general rule,</p> <p>10 municipalities purchase insurance to financially</p> <p>11 protect themselves from lawsuits; correct?</p> <p>12 A. Correct.</p> <p>13 Q. Is it not your understanding -- let me</p> <p>14 strike that. Isn't it your understanding that</p> <p>15 Ferguson bought this SLAIT policy that we're</p> <p>16 talking about today to protect itself from</p> <p>17 lawsuits?</p> <p>18 A. Yes -- it doesn't protect you from</p> <p>19 lawsuits, it's for liability --</p> <p>20 Q. It protects you from the consequences of</p> <p>21 some lawsuits.</p> <p>22 A. Okay. I like that better.</p> <p>23 Q. All right. I know we talked about, I'm</p> <p>24 just going to call it Endorsement H even though</p> <p>25 it's not reading that way exactly. Could you look</p>	<p style="text-align: right;">Page 177</p> <p>1 hypothetical. Calls for opinion. Indefinite.</p> <p>2 Subject to that, go ahead and answer.</p> <p>3 A. I guess so.</p> <p>4 Q. (By Mr. Vieth) Your opinion is that</p> <p>5 Endorsement H excludes coverage for this class</p> <p>6 action; correct?</p> <p>7 A. Yes.</p> <p>8 Q. Other people who read Endorsement H might</p> <p>9 interpret it differently; correct?</p> <p>10 MR. BUCKLEY: Objection. Calls for what</p> <p>11 other people might think. Speculation. Subject to</p> <p>12 that, you can go ahead and answer.</p> <p>13 A. Yes, I assume some have.</p> <p>14 Q. (By Mr. Vieth) Okay. And in fact,</p> <p>15 reasonable people could read this same endorsement</p> <p>16 and interpret it to give coverage to this class</p> <p>17 action, correct?</p> <p>18 MR. BUCKLEY: Same objection. Indefinite.</p> <p>19 Calls for opinion without foundation. Subject to</p> <p>20 that, you can answer.</p> <p>21 A. I don't think so, but --</p> <p>22 Q. (By Mr. Vieth) Okay.</p> <p>23 A. -- you do.</p> <p>24 Q. Why not?</p> <p>25 A. I think it's a class action suit</p>

<p style="text-align: right;">Page 178</p> <p>1 exclusion.</p> <p>2 Q. Okay. And I gave you a chance to say all</p> <p>3 your reasons for why you believe that and you</p> <p>4 pointed to the title "exclusion --"</p> <p>5 A. Exactly.</p> <p>6 Q. -- "class action suits"; correct?</p> <p>7 A. And I don't see anything in the body that</p> <p>8 makes me think otherwise.</p> <p>9 Q. We talked a bit about the fact that some</p> <p>10 of the words in this exclusion are bolded; correct?</p> <p>11 A. Yes.</p> <p>12 Q. And I just want to go over this to make</p> <p>13 sure that we're documenting it on the record. The</p> <p>14 word "damages" is bolded; correct?</p> <p>15 A. It's hard to tell, but yes, I think so.</p> <p>16 Q. Okay. And then we skip on down to "bodily</p> <p>17 injury" is bolded on the fourth line?</p> <p>18 A. It doesn't really look like it is on this</p> <p>19 copy.</p> <p>20 MR. BUCKLEY: I think it is.</p> <p>21 WITNESS: Okay.</p> <p>22 Q. (By Mr. Vieth) So you're agreeing that</p> <p>23 "bodily injury" is bolded?</p> <p>24 A. I'm willing to agree, yes.</p> <p>25 Q. And "property damage" is bolded?</p>	<p style="text-align: right;">Page 180</p> <p>1 as calling for -- actually calls for opinion of</p> <p>2 law. It calls for an opinion of grammar, which is</p> <p>3 incorrect, and it calls for a personal opinion.</p> <p>4 Subject to that, you can go ahead and answer.</p> <p>5 A. I actually forgot the question.</p> <p>6 MR. VIETH: Could you read that back,</p> <p>7 please.</p> <p>8 (Whereupon, the requested portion of the</p> <p>9 transcript was read for the record)</p> <p>10 A. Yes.</p> <p>11 Q. (By Mr. Vieth) All right. So are there</p> <p>12 other ways that you have considered that</p> <p>13 Endorsement H could have been worded to make it</p> <p>14 easier to understand?</p> <p>15 A. I would assume you could make it easier to</p> <p>16 understand.</p> <p>17 Q. Have you yourself drafted possible better</p> <p>18 ways to express that idea that's in current</p> <p>19 Endorsement H?</p> <p>20 A. No.</p> <p>21 Q. Do you know anybody else who has done</p> <p>22 that?</p> <p>23 A. The revised policy probably has made it</p> <p>24 easier to understand.</p> <p>25 Q. So it was possible to draft a better way</p>
<p style="text-align: right;">Page 179</p> <p>1 A. Right.</p> <p>2 Q. "Personal injury" is bolded?</p> <p>3 A. Yes.</p> <p>4 Q. "Advertising injury"?</p> <p>5 A. Yes.</p> <p>6 Q. "Error or omissions injury"?</p> <p>7 A. Yes.</p> <p>8 Q. And finally "employee benefit injury"?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. So other than the word "damages",</p> <p>11 all of these bolded terms comprise an itemized list</p> <p>12 within that paragraph; correct?</p> <p>13 MR. BUCKLEY: I think that calls for a --</p> <p>14 well, it calls for a -- the document speaks for</p> <p>15 itself, it's an entire list of things, you know.</p> <p>16 MR. VIETH: All right.</p> <p>17 Q. (By Mr. Vieth) It's a list of things.</p> <p>18 A. It's everything the policy covers.</p> <p>19 Q. All right. And after that final bolded</p> <p>20 term, which is "employee benefit injury", we have</p> <p>21 two more lines that are not bolded; correct?</p> <p>22 A. Correct.</p> <p>23 Q. And so those final two lines can refer to</p> <p>24 all of the items in the bolded list, correct?</p> <p>25 MR. BUCKLEY: I'm going to object to that</p>	<p style="text-align: right;">Page 181</p> <p>1 to express the idea that you see in current</p> <p>2 Endorsement H; correct?</p> <p>3 MR. BUCKLEY: Let me object as to what's</p> <p>4 possible, calls for speculation. Subject to that,</p> <p>5 go ahead and answer.</p> <p>6 A. I would think almost anything you write</p> <p>7 could be written better.</p> <p>8 Q. (By Mr. Vieth) Including Endorsement H;</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. Have you had discussions with other</p> <p>12 people, and I'm not going to include any</p> <p>13 conversation with any of your attorneys, whether</p> <p>14 it's SLAIT's attorneys or your personal attorney, I</p> <p>15 don't want to know about that.</p> <p>16 A. All right.</p> <p>17 Q. Have you had any discussions with anyone</p> <p>18 else where you or they express concern that</p> <p>19 Endorsement H is not clearly enough worded?</p> <p>20 A. No.</p> <p>21 Q. Have you heard of such discussions by any</p> <p>22 person, whether or not you were part of the</p> <p>23 conversation?</p> <p>24 A. No.</p> <p>25 MR. BUCKLEY: Other than attorneys?</p>

Exhibit 7

MISSOURI CIRCUIT COURT
TWENTY-FIRST JUDICIAL CIRCUIT
ST. LOUIS COUNTY

CITY OF FERGUSON, et al.,

Plaintiffs

v.

ST. LOUIS AREA INSURANCE TRUST,

Defendant

Cause #: 16SL-CC02387

Division #: 5

**DEFENDANT/COUNTERCLAIMANT SLAIT'S RESPONSES TO CLASS ACTION
CLAIMANTS' THIRD REQUEST FOR PRODUCTION OF DOCUMENTS**

COMES NOW Defendant/Counterclaimant St. Louis Area Insurance Trust ("SLAIT"), by and through counsel, and for its responses to the Class Action Claimants' Third Request for Production of Documents states the following:

4. Complete copies of the any insurance policies issued by or administered by SLAIT, including all attachments, declarations sheets and endorsements, that have been
 - a. used by SLAIT, or subsequent to SLAIT's use of the version of the SLAIT policy produced by SLAIT in response to the "CLASS ACTION CLAIMANTS' SECOND REQUEST FOR PRODUCTION OF DOCUMENTS TO SLAIT,"
 - b. considered for use by SLAIT at any time from 2010 to the present, or
 - c. referenced in the corporate representative deposition of Steve Wicker o June 19, 2018.

RESPONSE:

- a. Defendant SLAIT produces herewith a copy of the SLAIT policy issued to members and effective July 1, 2018.
- b. Defendant objects to this portion of the request as it would call for the production of attorney-client communications and privileged attorney mental impressions.
- c. See response to subpart a.

5. Copies of any documents created by or possessed by SLAIT relating to
 - a. "Endorsement H" or "Exdorsement H" as found in the SLAIT policy produced by SLAIT in response to the "CLASS ACTION CLAIMANTS' SECOND REQUEST FOR PRODUCTION OF DOCUMENTS TO SLAIT," or
 - b. Any language SLAIT considered or is considering that pertains to the exclusion of coverage of class actions regarding SLAIT policies.

For purposes of this 5th request, "documents" should be construed to have the same meaning as set forth in Missouri Rule of Civil Procedure 58.01.

RESPONSE:

- a. Defendant objects to this request in so far as it might be construed as calling for the production of attorney-client communications concerning Endorsement H. Defendant has no further documents not already produced relating to Endorsement H.
- b. Defendant objects to this portion of the request as it would call for the production of attorney-client communications and privileged attorney mental impressions. In response to Request 4 a., Defendant produces a copy of the SLAIT policy issued to members and effective July 1, 2018.

BUCKLEY & BUCKLEY, L.L.C.

/s/ Martin J. Buckley

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Attorneys for Defendant/Counterclaimant
St. Louis Area Insurance Trust

CERTIFICATE OF SERVICE

The undersigned certifies that on this 25th day of July 2018, copies of the foregoing were served on the following counsel of record via email to: Nathaniel R. Carroll, Blake A. Strode, Michael-John Voss, Arch City Defenders, 1210 Locust Street, 2nd Floor, St. Louis, MO 63103, ncarroll@archcitydefenders.org, bstrode@archcitydefenders.org, mjvoss@archcitydefenders.org, Attorneys for Defendants Keilee Fant, Roelif Carter, Allison Nelson, Herbert Nelson, Jr., Alfred Norris, Anthony Kimble, Donyale Thomas, Shameika Morris, Daniel Jenkins, Ronnie Tucker, and Tonya DeBerry; Ronald A. Norwood, Jacqueline K. Graves, Lewis Rice, LLC, 600 Washington Ave., Suite 2500, St. Louis, MO 63101, rnorwood@lewisrice.com, jgraves@lewisrice.com, Attorneys for Plaintiff City of Ferguson; and Erich Vieth, Erich Vieth – Attorney at Law, 20 South Sarah Street, St. Louis, MO 63108, erichviethattorney@gmail.com, Attorney for Defendants Keilee Fant, Roelif Carter, Allison Nelson, Herbert Nelson, Jr., Alfred Norris, Anthony Kimble, Donyale Thomas, Shameika Morris, Daniel Jenkins, Ronnie Tucker, and Tonya DeBerry.

/s/ Martin J. Buckley

St. Louis Area Insurance Trust
A Self-Insurance Pool

PUBLIC ENTITY LIABILITY INSURANCE POLICY

Claims Made Policy

THIS IS A CLAIMS MADE POLICY. THIS POLICY APPLIES ONLY TO CLAIMS MADE AGAINST YOU AFTER THE INCEPTION DATE AND BEFORE THE EXPIRATION DATE OF THIS POLICY. THERE WILL BE COVERAGE FOR ANY CLAIM ONLY IF IT IS REPORTED TO US AS SOON AS PRACTICABLE AND NO LATER THAN THIRTY (30) DAYS AFTER THE EXPIRATION DATE OF THE POLICY. IF A RETROACTIVE DATE APPLIES, YOUR POLICY WILL NOT COVER YOU FOR INJURY OR DAMAGE WHICH OCCURRED BEFORE THE RETROACTIVE DATE OR AFTER THE EXPIRATION DATE OF YOUR POLICY.

In consideration of the payment of the premium when due and subject to the Coverage Certificate and all terms and conditions of this Policy, we agree with you as follows:

I - COVERAGE

A. Insuring Agreement

We will pay those sums that the insured becomes legally obligated to pay as damages because of:

- 1) **Bodily Injury,**
- 2) **Property Damage,**
- 3) **Personal Injury, and**
- 4) **Law Enforcement Activities**

to which this Policy applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under this Policy.

The **bodily injury, property damage, or personal injury** must be caused by an occurrence that takes place in the coverage territory.

We will have the right and duty to defend any **claim or suit** seeking such **damages**, but:

- 1) The amount we will pay for damages is limited as described in **SECTION VI - LIMITS OF LIABILITY;**

- 2) We may, at our discretion, investigate any **occurrence** and settle any **claim** or **suit** that may result; and
- 3) Our right and duty to defend end when we have used up the applicable limits of liability in the payment of judgments or settlements. This applies both to **claims** and **suits** pending at that time and those filed thereafter.
- 4) When a claim or suit involves both covered and excluded claims, We will work on a cooperative basis with such other legal counsel, whom You select to defend the excluded claims, and We will not settle any excluded claim without your approval.

B. Non-Waiver of Immunity

Nothing contained in this Policy shall constitute any waiver of any kind of the defenses or limitations of sovereign immunity, governmental immunity or official immunity. The **Insuring Agreement** is not intended to provide coverage for any liability, **claim**, **suit** or **damages** which are barred by the doctrines of sovereign immunity, governmental immunity, or official immunity, by whatever name, as set forth in §§ 537.600 – 537.650 R.S.Mo., as amended from time to time, and as established by common law.

C. Exclusions

This insurance does not apply to:

1. Any **claim** or **suit** arising out of the operation, maintenance or use of any facility or operation designated in the **Schedule of Included/Excluded Operations** as “excluded.”
2. Any **claim** or **suit** alleging **bodily injury**, **property damage** or **personal injury** arising in whole or in part from the actual, alleged or threatened discharged, dispersal, seepage, migration, release or escape of **pollutants**.
3. Any **claim** or **suit** arising out of any obligation of the insured under a workers’ compensation, disability benefits or unemployment compensation law or any similar law.
4. Any **claim** or **suit** for which there is or would be any coverage under Part A or Part B of a workers’ compensation insurance Policy.
5. Any **claim** or **suit** arising out of or in any way connected with the operation of the principles of eminent domain, condemnation proceedings, inverse condemnation, adverse possession, dedication by adverse use, by whatever name called, whether such liability is asserted directly against any insured or by virtue of any agreement entered into by or on behalf of any insured.

6. Any **claim**, or that part of any **suit**, seeking recovery of punitive or exemplary damages.

7. Any **claim** or **suit** arising out of unfair competition or violation of any anti-trust laws.

8. Any **claim** or **suit** arising out of infringement of copyright, title, slogan, patent, trademark, trade dress, trade name, service mark or service name.

9. Any **claim** or **suit** arising out of any loss, cost or expense incurred by any insured or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- a. **Your product**, or
- b. **Your work**

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

10. Any **claim** or **suit** arising out of **bodily-injury, property damage or personal injury** expected or intended from the standpoint of any insured. This exclusion does not apply to **bodily injury** resulting from the use of reasonable force to protect persons or property.

11. Any **claim** or **suit** arising out of the employment or prospective employment of any person by any insured, including any **claim(s)** or **suit(s)** for **bodily injury, property damage or personal injury** sustained by any person and caused by the demotion, dismissal or failure to promote or refusal to hire any person by any insured.

12. Any **claim** or **suit** brought as a class action or seeking certification as a class action.

13. Any **claim** or **suit** alleging **bodily injury, property damage or personal injury** caused by any dishonest, fraudulent, criminal or malicious act or omission of any insured.

14. Any **claim** or **suit** alleging **bodily injury, property damage or personal injury**:

- a. For which any insured is obligated to pay **damages** by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for **damages**:
 - (1) Assumed in a contract or agreement that is an **insured contract**, or
 - (2) That the insured would have in the absence of the contract or agreement.

- b. For which any insured may be held liable by reason of:
 - (1) Causing or contributing to the intoxication of any person;
 - (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
 - (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use alcoholic beverages.
 - c. Arising out of the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and **loading** or **unloading**. This exclusion does not apply to:
 - (1) A watercraft while ashore on premises you own or rent;
 - (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
 - (3) Parking an **auto** on or the ways next to premises you own or rent, provided the **auto** is not owned by or rented or loaned to you or any insured;
 - (4) Liability assumed under any **insured contract** for the ownership, maintenance or use of aircraft or watercraft;
 - (5) **Bodily injury, property damage or personal injury** arising out of the operation of the equipment listed in Paragraph f.(2) or f.(3) of the definition of **mobile equipment**.
 - d. Arising out of:
 - (1) The transportation of **mobile equipment** by an **auto** owned or operated by or rented or loaned to any insured; or
 - (2) The use of **mobile equipment** in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity;
 - e. Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.
15. Any **claim or suit** alleging **bodily injury, property damage or personal injury** to:

- (1) An employee of any insured arising out of or in the course of employment by any insured; or
- (2) The spouse, child, parent, brother or sister of that employee as a consequence of (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share **damages** with or repay someone else who must pay **damages** because of the injury.

This exclusion does not apply to liability you assumed under an **insured contract**.

16. Any claim or suit alleging **property damage** to:

- (1) Property any insured owns, rents or occupies;
- (2) Premises any insured sells, gives away or abandons, if the **property damage** arises out of any part of those premises;
- (3) Property loaned to any insured;
- (4) Personal property in the care, custody or control of any insured (except property of an inmate of a jail if Penal Institutions, Jails, Correctional Facilities, and Detention Facilities are shown as an "included" operation on the **Schedule of Included/Excluded Operations**, and then only up to a limit of \$2,500 per inmate);
- (5) That particular part of real property on which any insured or any contractor(s) or subcontractor(s) working directly or indirectly on any insured's behalf are performing operations, if the **property damage** arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are **your work** and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to **property damage** included in the **products-completed operations hazard**.

17. Any **claim or suit** alleging **property damage** to:

- a. **Your product** arising out of it or any part of it.
- b. **Your work** arising out of it or any part of it and included it in the **products-completed operations hazard**.

This exclusion does not apply of the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

- c. Property that has not been physically injured, arising out of:
 - (1) A defect, deficiency, inadequacy or dangerous condition in **your product or your work**; or
 - (2) ~~A delay or failure by any insured or anyone acting on an insured's behalf to perform a contract or agreement in accordance with its terms.~~

This exclusion does not apply to loss of use of other property arising out of the sudden and accidental physical injury to your product or your work after it has been put to its intended use.

18. Any **claim or suit** alleging **personal injury**:

- a. Arising out of oral or written publication of material, if done by or at the direction of any insured with knowledge of its falsity; or
- b. Arising out of oral or written publication of material whose first publication took place before the retroactive date shown on the Certificate of Coverage for this Policy; or
- c. Arising out of the willful or knowing violation of a penal statute or ordinance committed by or with the knowledge or consent of any insured; or
- d. For which any insured has liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

19. Any **claim** or that part of any **suit** seeking solely non-monetary relief including, without limitation, injunctions or declaratory relief.

20. Any **claim** or **suit** alleging **damages** for which there is coverage under any commercial general liability policy, automobile liability policy, cyber insurance policy or public officials liability policy issued to the named insured.

21. Any **claim** or **suit** arising out of the rendering of or failure to render professional medical, nursing, dental or paramedical services.

22. Any **claim** or **suit** arising out of the rendering or failure to render any professional services by or for you by any engineer, architect, or surveyor including, but not limited to:

- (1) The preparing, approving, or failure to prepare or approve maps, drawings, opinions, reports, surveys, changers, designs or specifications; and
- (2) Supervisory, inspection or engineering services.

23. Any **claim** or **suit** alleging damages arising out of the rendering or failure to render professional services by any lawyer.

24. Any **claim** or **suit** alleging **bodily injury, property damage or personal injury** to any volunteer fireman while in the course of his or her duties as a fireman, whether or not he or she is a member of your organization.

25. Any **claim** or **suit** alleging **bodily injury, property damage or personal injury** arising in whole or in part from asbestos exposure or the presence of asbestos in any real or personal property.

26. Any **claim** or **suit** alleging **bodily injury, property damage or personal injury** arising in whole or in part from lead exposure or the presence of lead in any real or personal property.

27. Any **claim** or **suit** alleging **bodily injury, property damage or personal injury** arising out of or resulting from sexual abuse, sexual molestation or sexual exploitation of any person, including minors, by:

- (1) Any insured;
- (2) Any employee of any insured; or
- (3) Any person performing volunteer services for or on behalf of any insured.

This exclusion shall not apply to an insured who is not alleged to have sexually abused, sexually molested or sexually exploited the claimant.

28. Any claim or suit arising out of collapse, flooding, cracking, settling, seepage, underseepage, spillage, subsidence, landslide or earth movement of any dam.

29. Any liability arising, in whole or in part, from a **Certified Act of Terrorism**.

II – APPLICATION OF POLICY

A. Claims Made Coverage and Reporting

This Policy applies to **bodily injury, property damage and personal injury** only if a **claim** for **damages** because of the **bodily injury, property damage or personal injury**, is first made against any insured during the Policy Period and is reported to us no later than thirty (30) days after the conclusion of the Policy Period shown on the Certificate of Coverage. The Policy will apply only if, at the time you applied for this coverage, no insured had any knowledge of such **claim** or **suit** or of any **occurrence** which might reasonably be expected to result in such **claim** or **suit**.

- a. A **claim** seeking **damages** will be deemed to have been made when notice of such **claim** is first received by any insured or by us, whichever comes first.
- b. All **claims** for **damages** because of **bodily injury, property damage or personal injury** to the same person or entity will be deemed to have been made at the time of the first claim made against any insured.
- c. All **claims** for **damages** because of **employee benefit injury** as a result of an **occurrence** will be deemed to have been made at the time of the first **claim** made against any insured.

B. Deductible Liability Coverage

Our obligation to pay **damages** on behalf of any insured because of injury or harm sustained by one or more persons or organizations as a result of any one **claim** applies only to the amount of **damages** payable which is in excess of the deductible amounts stated below:

- | | |
|--------------------------------------|------------------------------|
| a. Bodily Injury and Property | |
| Damage | \$500 each occurrence |
| b. Personal Injury | \$500 each occurrence |
| c. Law Enforcement Activities | \$2,500 each act or omission |

We may pay any part or all of the deductible amount to effect settlement of any **claim** or **suit** and, upon notification of such a settlement, you shall promptly reimburse us for such part of the deductible amount that has been paid by us.

III – WHO IS AN INSURED

Each of the following is an insured:

- a. You;
- b. Any commission, board, authority, administrative department or other similar unit operated by you and under your jurisdiction;
- c. Your employees and authorized volunteers, other than licensed medical, nursing, dental, paramedical or legal personnel (including lawyers and paralegals), but only for acts within the scope of their employment or as authorized by you. However, none of these employees or authorized volunteers is an insured for:
 - 1) **Bodily injury or personal injury** to a co-employee or to a volunteer while in the course of his or her employment or while acting on your behalf;
 - 2) **Bodily injury or personal injury** arising out of personally providing or failing to provide professional healthcare service;
 - 3) **Bodily injury, personal injury or property damage** arising out of providing or failing to provide legal services; or
 - 4) **Property damage** to property owned or occupied by or rented or loaned to that employee, that volunteer or any of your other employees or volunteers.
- d. Any duly elected or appointed officials and members of your governing body; and
- e. Any person or organization to whom you are obligated by virtue of a written contract to provide insurance such as is afforded by this Policy, but only with respect with to operations for you or to facilities you own, rent or use. The written contract must have been entered into prior to the **bodily injury, property damage or personal injury**. The persons or organizations described above are insured only while acting within the scope of their duties with respect to a facility or operation that is designated in the **Schedule Included/Excluded Operations** as “included”. Notwithstanding any other Limit of Liability contained in this Policy, the Limit of Liability for coverage provided to any insured for **bodily injury, property damage or personal injury** under this subparagraph shall not exceed \$100,000 for one person in a single accident or **occurrence** nor \$1,000,000 for all claims arising out of a single accident or **occurrence**.

IV- SUPPLEMENTARY PAYMENTS

A. General Expenses

We will pay, with respect to any **claim** or **suit** we defend:

- 1) All **claim expenses**;
- 2) Up to \$250 for cost of bail bonds required because of accidents or traffic law violation arising out of the use of any vehicle to which this insurance applies. We do not have to furnish these bonds.
- 3) The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- 4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or suit, including actual loss of earnings up to \$100 per day because of time off from work.
- 5) All costs taxed against the insured in the suit; and
- 6) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of liability.

B. Medical Expenses

1. We will also pay medical expenses as described below for **bodily injury** caused by an **occurrence**:

- a) On premises you own or rent;
- b) On ways next to premises you own or rent; or
- c) Because of your operations;

Provided that:

- a) The **occurrence** takes place in the Coverage Territory and during the Policy Period;
- b) The expenses are incurred and reported to us within one year of the day of the accident; and

- c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
2. We will make these payments regardless of fault up to a maximum amount of \$250 per person or \$500 per **occurrence**. The medical expenses for which we will pay are reasonable expenses for:
- a) First aid at the time of an accident;
 - b) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
 - c) Necessary ambulance, hospital, professional nursing and funeral services.

3. Exclusions

We will not pay medical expenses as described above for **bodily injury**:

- a) To any insured;
- b) To any person-hired-to work for on or on behalf of any insured or a tenant of any insured;
- c) To any inmate, patient or prisoner who is being treated, cared for, detained or imprisoned in any of your facilities;
- d) To any person injured on that part of premises you own or rent that the person normally occupies;
- e) To any person, whether or not an employee of any insured, if benefits for the bodily injury are payable or must be provided under a workers' compensation or disability benefits law or similar law;
- f) To any person injured while taking part in athletics;
- g) Any injury included within the **Products-Completed Operations Hazard**; and
- h) Due to war, whether or not declared, or by any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

V – DEFINITIONS

In this Policy, “You” and “Your” refer to the “Named Insured” shown in the Certificate of Coverage.

“We”, “Us” and “Our” refer to St. Louis Area Insurance Trust.

The word “Insured” means any person or organization qualifying as such under **SECTION III – WHO IS AN INSURED.**

Other words and phrases are defined below. They are bold-faced when used.

“**Auto**” means a land motor vehicle having at least four wheels, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But **auto** does not include **mobile equipment**.

“**Bodily Injury**” means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

“**Certified Act of Terrorism**” means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act.

“**Claim**” means a demand received by any insured for **damages** alleging **bodily injury, property damage, personal injury or law enforcement activities** including the institution of a **suit** for such **damages** against any insured.

“**Claim Expenses**” means all expenses incurred by the insured or us in the investigation, negotiation, arbitration, settlement and defense of any **claim** or **suit**, whether paid by us or the insured, but the term **claim expenses** does not include the salaries of any insureds or your regular employees or the expenses incurred by any insured for first aid.

“**Coverage Territory**” means all parts of the world if the insured’s responsibility to pay **damages** is determined in a suit on the merits in the United States (including its territories and possessions), Puerto Rico or Canada or in a settlement we agree to.

“**Damages**” means a monetary judgment, award or settlement, but does not include fines, penalties or punitive or exemplary damages.

“**Fungi**” means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by **Fungi**.

“**Insured Contract**” means:

- a) A lease of premises;

- b) A sidetrack agreement;
- c) An easement or license agreement in connection with vehicle or pedestrian private railroad crossings at grade;
- d) Any other easement agreement, except in connection with construction or demolition operations on or within fifty feet of a railroad;
- e) An indemnification of a municipality as required by ordinance, except in connection with work for a municipality;
- f) An elevator maintenance agreement; or
- g) That part of any other contract or agreement pertaining to your business under which you assume the tort liability of another to pay **damages** because of **bodily injury** or **property damage** to a third person or organization, if the contract or agreement is made prior to the **bodily injury** or **property damage**. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

An “**Insured Contract**” does not include that part of a contract or agreement:

- a) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - 1) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs, or specifications; or
 - 2) Giving directions or instructions, or failing to give them, if that is a contributing cause of the injury or damage;
- b) Under which the insured, if an architect, engineer or surveyor, assumes liability for injury or damage arising out of the insured’s rendering or failing to render professional services, including those listed in a) above and supervisory, inspection or engineering services; or
- c) That indemnifies any person or organization for damage by fire to premises rented or loaned to you.

“**Law Enforcement Activities**” means acts or omissions of police officers, jail officials, jail guards or code officials taken in the course and scope of their employment by you that result in a **claim** or **suit** alleging **bodily injury**, **property damage** or **personal injury**.

“**Loading or Unloading**” means the handling of property;

- a) After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or **auto**;
- b) While it is in or on an aircraft, watercraft or **auto**; or
- c) While it is being moved from aircraft, watercraft or **auto** to the place where it is finally delivered;

But **loading** and **unloading** does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or **auto**.

“Mobile Equipment” means any of the following types of land vehicles, including any attached machinery or equipment;

- a) Bulldozers, farm machinery, forklifts and other vehicles designed for use primarily off public roads;
- b) Vehicles maintained for use solely on or next to premises you own or rent;

Any land motor vehicle, trailer or semi-trailer designed for travel on public roads (including any machinery or apparatus that is attached) owned or leased by you shall be deemed an **auto** and not **mobile-equipment** if the only reason for considering it **mobile-equipment** is that it is maintained for use primarily or exclusively on streets or highways owned by you;

- c) Vehicles that travel on crawler treads;
- d) Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - 1) Power cranes, shovels, loaders, diggers or drills;
 - 2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e) Vehicles not described in a), b), c), or d) above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - 1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - 2) Cherry pickers and similar devices used to raise or lower workers;
- f) Vehicles not described in a), b), c), or d) above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not **mobile equipment** but will be considered **autos**:

- 1) Equipment designed primarily for:
 - a) Snow removal;
 - b) Road maintenance, but not construction or resurfacing;
 - c) Street cleaning;
- 2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- 3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

“Occurrence” means:

- ~~a) An accident, including continuous or repeated exposure to substantially the same general conditions;~~
- b) With respect to **personal injury**, an offense described within the definition of **personal injury**.

“Personal Injury” means injury (other than **bodily injury**) arising out of one or more of the following offenses:

- a) False arrest, false detention or imprisonment;
- b) Malicious prosecution;
- c) Wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies;
- d) Oral or written publication of material that slanders or libels a person or organization or disparages a person’s or organization’s goods, products or services; or
- e) Oral or written publication of material that violates a person’s right of privacy.
- f) With respect to **Law Enforcement Activities** only, improper service of process and violations of civil rights.

"Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, **fungi**, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

"Products-Completed Operations Hazard" includes all **bodily injury** and **property damage** occurring away from premises you own or rent and arising out of **your product** or **your work** except:

- a) Products that are still in your physical possession; or
- b) Work that has not yet been completed or abandoned.

Your work will be deemed completed at the earliest of the following times:

- a) When all of the work called for in your contract has been completed;
- b) When all of the work to be done at the site has been completed if your contract calls for work at more than one site;
- c) When that part of the work done at the jobsite has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

This hazard does not include **bodily injury** or **property damage** arising out of:

- 1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle created by the loading or unloading of it;
- 2) The existence of tools, uninstalled equipment or abandoned or unused materials;

"Property Damage" means:

- a) Physical injury to tangible property, including all resulting loss of use of that property; or
- b) Loss of use of tangible property that is not physically injured.

"Suit" means a civil proceeding in which **damages** because of **bodily injury**, **property damage** or **personal injury** to which this Policy applies are alleged. **Suit** includes an arbitration proceeding alleging such damages to which you must submit or submit with our consent.

"Your Product" means:

- a) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - 1) You;
 - 2) Others trading under your name; or
 - 3) Any person or organization whose business or assets you have acquired;
 and
- b) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

Your product includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in a) and b) above.

Your product does not include vending machines or other property rented to or located for the use of others but not sold.

“Your Work” means:

-
- a) Work or operations performed by you or on your behalf; and
 - b) Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in a) and b) above.

VI – LIMITS OF LIABILITY

1. The Limits of Liability shown in the Certificate of Coverage and the rules below fix the most we will pay regardless of the number of:

- a) Insureds;
- b) Claims made or suits brought; or
- c) Person or organizations making claims or bringing suits.

2. The Per Occurrence Limit is the most we will pay for any damages arising out of one **occurrence**.

3. The General Aggregate Limit shown in the Certificate of Coverage is the most we will pay for all damages regardless of the number of **occurrences**.

4. The Products-Completed Operations Aggregate Limit shown in the Certificate of Coverage is the most we will pay for all damages because of **bodily injury** or **damage** included in the **products-completed operations hazard**.

5. In the event that more than one coverage applies to the same **claim** or **suit** brought against any insured, our total liability for all **damages** with respect to such **claim** or **suit** shall not exceed the highest limit of liability under any such coverage.

6. With respect to any coverage afforded under subparagraph **e.** of **Section III – WHO IS AN INSURED**, coverage is limited to \$100,000 for any one person in a single accident or occurrence and \$1,000,000 for all claims arising out of single accident or occurrence.

VII - CONDITIONS

1. Premiums

The named insured shown in the Certificate of Coverage:

- a) Is responsible for the payment of all premiums; and
- b) Will be the payee for any return premiums we pay.

2. Inspections and Surveys

We have the right, but not the obligation, to:

- a) Make inspections and surveys at any time;
- b) Give you reports on the conditions we find; and
- c) Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health and safety of workers or the public. We do not warrant that condition:

- a) Are safe or healthful; or
- b) Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory rate service or similar organization which makes insurance recommendations, surveys, reports or recommendations.

3. Examination of Your Books and Records

We may examine and audit your books and records as they relate to this Policy at any time during the Policy Period and up to three (3) years afterward.

4. Duties In The Event of Occurrence, Claim or Suit

- a) You must see to it that we are notified as soon as practicable of an **occurrence** which may result in a **claim**. Notice must include:
 - 1) How, when and where the **occurrence** took place;
 - 2) The names and addresses of any injured persons and witnesses; and
 - 3) The nature and location of any injury or damage arising out of the **occurrence**.

Notice of any **occurrence** is not notice of a **claim**.

- b) If a **claim** is received by an insured, you must:
 - 1) Immediately record the specifics of the claim and the date received; and
 - 2) Notify us in writing as soon as practicable, but in no event later than thirty (30) days after the expiration of this Policy.
- c) You and any other involved insured must:
 - 1) Immediately send us copies of any demands, notices, summons or legal papers received in connection with a **claim or suit**;
 - 2) Authorize us to obtain records and other information;
 - 3) Cooperate with us in the investigation, settlement or defense of the **claim or suit**; and
 - 4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to any insured because of injury or damage to which this insurance may also apply.
- d) No insured will, except at his, her or its own costs, voluntarily make any payment, assume any obligation or incur any expense without our consent, unless for first aid.

5. **Legal Action Against Us**

No person or organization has a right under this Policy:

- a) To join us as a party or otherwise bring us into a suit asking for damages from any insured; or
- b) To sue us on this Policy unless all of its terms have been fully complied with.

6. **No Assignment of Rights**

Your rights under this Policy are not assignable. If you attempt to assign your rights to coverage under this Policy to any other person, company, firm or entity, you agree that you will reimburse us for all legal expenses we incur in defending against that assignment and any judgment that might be entered as a result of such assignment.

7. **Transfer of Rights and Recovery Against Others to Us**

If any insured has rights to recover all or part of any payment we have made under this Policy, those rights are transferred to us. Such insured must do nothing after loss to impair those rights. At our request, such an insured will bring suit or transfer those rights to us and help us enforce them.

8. **Changes**

None of the provisions of this Policy shall be waived, changed or modified except by written endorsement issued by us to form a part of this Policy.

9. **Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Policy.

10. **Other Insurance**

There is no coverage under this Policy for any occurrence for which there is coverage under a commercial general liability policy, automobile liability policy, cyber insurance policy or public officials liability policy issued to the named insured. If other valid and collectible insurance is available to any insured for a claim we cover under this Policy, our obligations are limited as follows:

- a) Primary Insurance

This insurance is primary insurance, except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. In that event, we will share with all that other insurance by the method described in c. below.

b) Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

- 1) That is effective prior to the beginning of the Policy Period shown in the Certificate of Coverage of this Policy and applies to **bodily injury, property damage, or personal injury** on other than a claims-made basis, if:
 - a. No retroactive date is shown in the Certificate of Coverage of this insurance; or
 - b. The other insurance has a Policy Period which continues after the retroactive date shown in the Certificate of Coverage of this insurance;
- 2) That is Fire, Extended Coverage, Builders Risk, Installation Risk or similar coverage for **your work**;
- 3) That is Fire Insurance for premises rented to you; or
- 4) If the loss arises out of the maintenance or use of aircraft, **autos** or watercraft to the extent not subject to **Exclusion 14.c.**

When this Policy is excess, we will have no duty to defend any **claim** or **suit** that any other insurer has a duty to defend. If no other insured defends, we will undertake to do so, but we will be entitled to any insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of loss, if any, that exceeds the sum of:

- 1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- 2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought

specifically to apply in excess of the Limits of Insurance shown in the Certificate of Coverage of this Policy.

c) **Method of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also, except in those instances in which b. above applies under this approach, each insurer contributes equal amounts until each has paid its applicable Limit of Insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits, unless b. above applies under this method, each insurer's share is based on the ratio of its applicable Limit of Insurance to the total applicable Limits of Insurance of all insurers.

11. Cancellation

- a) The Named Insured shown in the Certificate of Coverage may cancel the Policy by mailing or delivering to us advanced written notice of cancellation.
- b) We may cancel this Policy by mailing or delivering to the Named Insured written notice of cancellation at least:
 - 1) Ten (10) days before the effective date of cancellation if we cancel for non-payment of premium; or
 - 2) Sixty (60) days before the effective date of cancellation if we cancel for any other reason.
- c) We will mail or deliver our notice to the Named Insured's last mailing address known to us.
- d) Notice of cancellation will state the effective date of cancellation. The Policy Period will end on that date.
- e) If this Policy is cancelled, we will send the Named Insured any premium refund due. If we cancel, the refund will be pro-rata. If the Named Insured cancels, the refund may be less than pro-rata. The cancellation will be effective even if we have not made or offered a refund.
- f) If notice is mailed, proof of mailing will be sufficient proof of notice.

12. **Representations**

By accepting this Policy, you agree:

- a) The statements in the Certificate of Coverage are accurate and complete;
- b) Those statements are based upon representations you made to us; and
- c) We have issued this Policy in reliance upon your representations.

SCHEDULE OF INCLUDED/EXCLUDED OPERATIONS

Coverage

Included	Excluded	Description of Operations
_____	___Excluded___	Airport
_____	___Excluded___	Amusement Parks
_____	___Excluded___	Dams, Lakes, Reservoirs
_____	___Excluded___	Electric utility system
_____	___Excluded___	Gas Department or Gas Utility System
___Included___	_____	Golf Courses
_____	___Excluded___	Hospitals and Nursing Homes
_____	___Excluded___	Housing Authority and Housing Projects
_____	___Excluded___	Landfills
___Included___	_____	Law Enforcement Activities (bodily injury and property damage coverage only)
___Included___	_____	Law Enforcement Activities (personal injury coverage only)
___Included___	_____	Penal Institutions, Jails, Correctional Facilities, Detention Facilities
_____	___Excluded___	Schools and Colleges
_____	___Excluded___	Ski Facilities and Skiing Activities
___Included___	_____	Street, Roads, Highways or Bridges (including signs, meters, signals, etc.)
_____	___Excluded___	Transportation Systems
_____	___Excluded___	Water and Sewer Companies
_____	___Excluded___	Wharves, Piers, Pocks, Marinas and Watercraft
_____	___Excluded___	Zoos

Endorsement A

This Endorsement Changes The Policy.
Please read it carefully.

EMERGENCY MEDICAL TREATMENT COVERAGE

This endorsement modifies insurance provided under the PUBLIC ENTITY LIABILITY
INSURANCE POLICY – CLAIMS MADE

We agree with you:

1) For the payment of premium, the definition of **bodily injury** is amended to include injury arising out of the rendering of or failure to render emergency medical treatment by any person (other than a physician, dentist or nurse employed by you to provide such services) including any **professional volunteer** designated in this endorsement and who provides these services on your behalf subject to the following provisions:

a) Exclusion 6. Does not apply.

b) The insurance afforded by this endorsement to each such person does not apply to **bodily injury** to another of your employees or volunteers arising out of and in the course of his or her duties for (1) you or (2) if the named insured is a partnership or joint venture, any partner or member thereof.

2) As used herein, "**professional volunteer**" means any person who is a licensed or certified nurse, emergency medical technician or paramedic, and performs medical or paramedical services without charge, for or at your direction.

3) The coverage afforded by this endorsement shall only apply if you have selected this endorsement.

Designated Professional Volunteers

Emergency Medical Technicians and Paramedics per schedule on file.

Endorsement B

This Endorsement Changes The Policy.
Please Read It Carefully.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT
(BROAD FORM)

This Endorsement modifies insurance provided under the PUBLIC ENTITY LIABILITY
INSURANCE POLICY – CLAIMS MADE

- 1) This insurance does not apply:
 - a) Under any Liability Coverage to **bodily injury or property damage**:
 - (1) With respect to which an insured under the Policy is also an insured under a Nuclear Energy Liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - (2) Resulting from the **hazardous property of nuclear material** and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the insured is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
 - b) Under any Medical Payments Coverage, to expenses incurred with respect to **bodily injury** resulting from the **hazardous properties of nuclear material** and arising out of the operation of a **nuclear facility** by any person or organization.
 - c) Under any Liability Coverage to **bodily injury or property damage** resulting from the **hazardous properties of nuclear material**, if:
 - (1) The **nuclear material** (a) is at any **nuclear facility** owned by, or operated by or on behalf of, an insured or (b) has been discharged or disbursed therefrom;

- (2) The **nuclear material** is contained in spent fuel or **waste** at any time possessed, handled, used, processed, stored, transported or dispensed of by or on behalf of any insured; or
- (3) The **bodily injury or property damage** arises out of the furnishing by any insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to **property damage** to such **nuclear facility** and any property thereat.

2) As used in this endorsement:

"Hazard Properties" include radioactive, toxic or explosive properties;

"Nuclear Material" means source material, **special nuclear material** or **bi-product material**;

"Source Material", **"special nuclear material"** and **"bi-product material"** have the meanings given in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"Spent Fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

"Waste" means any waste material (a) containing any **bi-product material** other than the tailings or wastes produced by the extraction or concentration of uranium or thorium or any ore processed primarily for its **source material** content, and (b) resulting from the operation by any person or organization of any **nuclear facility** included under the first two paragraphs of the definition of **nuclear facility**.

"Nuclear Facility" means:

- a) Any nuclear reactor;
- b) Any equipment or device designated or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel or (3) handling, processing, or packing waste;
- c) Any equipment or device used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the insured at the premises where such equipment or devices located consist of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, are more than 250 grams of uranium 235;

- d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste**;

And includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

“Nuclear Reactor” means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or contain a critical mass of fissionable materials;

“Property Damage” includes all forms of radioactive contamination of property.

Endorsement C

This Endorsement Changes the Policy
Please Read It Carefully

Employee Benefits Liability Coverage

This endorsement modifies insurance provide under the PUBLIC ENTITY LIABILITY
INSURANCE POLICY – CLAIMS MADE

Coverage	Limits of Liability	Deductible
Employee Benefit Liability Insurance	\$1,000,000 each claim \$1,000,000 aggregate	\$1,000 each claim

In consideration of the premium paid, we agree with you to afford the coverage set forth in this endorsement. The other terms, conditions and limits of liability in other sections of the policy to which this endorsement is attached shall not apply to the insurance afforded under this endorsement.

INSURING AGREEMENTS**1. Employee Benefits Liability:**

We will pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as damages because of any claim made against the Insured due to any negligent act, error or omission of the Insured, or any other person for whose acts the Insured is legally liable, in the administration of the Insured's Employee Benefits Program, as defined herein, and we shall have the right and duty to defend any suit against the Insured seeking damages on account of such negligent act, error or omission, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as we deem expedient; but we shall not be obligated to defend any suit after the applicable limit of liability set forth above has been exhausted by payment of judgments or settlements.

2. Supplementary Payments:

We will pay, in addition to the applicable limit of liability:

- (a) All expense we incur, all costs taxed against the Insured in any suit defended by us and all interest on the entire amount of any judgment therein which accrues after entry of judgment and before we have paid or tendered or deposited in court that part of the judgment which does not exceed the limit of liability set forth above;
- (b) Premiums on appeal bonds required in any such suit and premiums on bonds to release attachments for an amount not in excess of the applicable limit of

liability set forth above, but without any obligation to apply or furnish any such bonds;

- (c) Reasonable expenses incurred by the Insured at our request, including actual loss of wages or salary (but not loss of other income) not to exceed \$25 per day because of his or her attendance at hearings or trials at our request.

DEFINITIONS

1. Definition of "Insured":

With respect to the insurance afforded by this endorsement, the unqualified word "Insured" includes the named insured as shown on the Certificate of Coverage. The unqualified word "Insured" also includes the following:

- (a) Any executive officer or director of the Named Insured while acting within the scope of his or her duties as such;
- (b) Any full-time, salaried employee, provided that such employee is authorized to act in the administration of the Named Insured's Employee Benefits Program.

2. "Employee Benefits Programs":

The term "Employee Benefits Programs" means (a) group life insurance, group accident or health insurance, profit sharing plans, pension plans, employee stock subscription plans, workman's compensation, unemployment insurance, social security benefits, disability benefits, and (b) any other similar employee benefits instituted after the effective date of this endorsement, provided that we are notified within 30 days after the institution of such benefits.

3. "Administration":

The unqualified word "Administration" whenever used shall mean:

- (a) Interpreting the Employee Benefits Programs;
- (b) Handling of records in connection with the Employee Benefits Program;
- (c) Effective enrollment, termination or cancelation of employees under the Employee Benefits Programs; provided all such acts are authorized by the named insured.

EXCLUSIONS

1. This Endorsement Does Not Apply to:
 - (a) Any claim based upon or attributable to any dishonest, fraudulent, criminal or malicious act, libel, slander, discrimination, or humiliation;
 - (b) Bodily injury to sickness, disease or death, of any person, or to any injury to any tangible property, including the loss of use thereof;
 - (c) Any claim for failure of performance of contract by an insurer;
 - (d) Any claim based upon the Insured's failure to comply with any law concerning workman's compensation, unemployment insurance, social security or disability benefits;
 - (e) Any claim based upon:
 - (i) Advice given by an Insured to an employee to participate or not to participate in any Employee Benefit Plans;
 - (ii) ~~The appointment of, or the failure to appoint, any investment manager, administrator, trustee, actuary, advisor, counsel, accountant, custodian, or consultant;~~
 - (iii) Any investment activity, including but not limited to, the management, administration or disposition of assets of any Employee Benefit Program.

2. This endorsement does not provide coverage for any claim to the extent that recovery could not have been attained upon such claim in an action at law prior to the effective date of the Employee Retirement Income Security Act of 1974 (ERISA).

CONDITIONS

1. Application of the Endorsement:

This endorsement applies to damages which occur within the United States of America. Its territories or possessions or Canada provided claim or suit is brought against the Insured during the endorsement period. And the Insured at the effective date of this endorsement had no knowledge or could not have reasonably foreseen any circumstances which might result in a claim or suit.

2. Limits of Liability:

Regardless of the number (a) insureds under this policy, (b) persons who sustain damage, or (c) claims made or suits brought for such damage; the Limit of Liability stated above as applicable to "each claim" is the limit of our liability for all damages incurred on account of any claim covered hereunder; the Limit of Liability stated above as "aggregate" is, subject to the foregoing provision respecting "each claim", the total limit of our liability for all claims covered under this endorsement and occurring during the annual period this endorsement is in force.

3. Insured's Duties in the Event of Occurrence, Claim or Suit:

- (a) In the event of an occurrence which may result in a claim, written notice concerning the particulars sufficient to identify the Insured and claimant, and also reasonably obtainable information with respect to the circumstances of the claim shall be given by or for the Insured to us as soon as practicable.
- (b) If claim is made or suit is brought against the Insured, the Insured shall immediately forward to us every demand, notice, summons or other process received.
- (c) The insured shall cooperate with us and, upon our request, shall attend hearings and trials, assist in making settlements, assist in the conduct of suits and in securing and giving evidence or obtaining the attendance of witnesses. The Insured shall not, except at its own cost, voluntarily make any payment, assume any obligations or incur any expense.

4. Deductible:

The deductible amount indicated above shall be subtracted from the total amount of all sums which we are obligated to pay or which we incur on behalf of the Insured on account of each claim. We shall be liable only for the difference between such deductible amount and the limit of liability as set forth above. The terms of this endorsement, including those with respect to notices of claim or suit and this company's right to investigate and negotiate any such claim or suit, apply irrespective of the application of this deductible amount.

5. Action Against Company

No action shall lie against this company, unless as a condition precedent thereto, the Insured shall have fully complied with all of the terms of this endorsement, nor until the amount of the Insured's obligation to pay shall have been finally determined by a judgment against the Insured after actual trial or by written agreement of the Insured, the claimant and us.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this endorsement to the extent of the insurance afforded by this endorsement. No person or organization shall have any right under this endorsement to join us as a party to any action against the Insured to determine the Insured's liability, nor shall we be impleaded by the Insured or his legal representative. Bankruptcy or in solvency of the Insured or of the Insured's estate shall not relieve us of any of our obligations hereunder.

6. Subrogation

In the event of any payment under this endorsement, we shall be subrogated to all of the Insured's rights of recovery therefor against any person or organization and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such right. The insured shall do nothing after loss to prejudice such rights.

7. Changes

Notice to any agent or knowledge possessed by and agent or by another person shall not affect a waiver or a change in any part of this endorsement or estop us from asserting any right under the terms of this endorsement; nor shall the terms stated herein be waived or changed, except by endorsement issued to effect such change.

8. Assignment

Assignment of interest under this endorsement shall not bind us unless we give consent in writing.

9. Other Insurance

If the Insured has other insurance against a claim or suit covered by this endorsement, we shall not be liable under this endorsement for a greater proportion of such loss than the Limit of Liability stated above bears to the total Limit of Liability of all valid and collectible insurance providing coverage for such claim or suit. However, with respect to negligent acts, errors or omissions which occur prior to the effective date of this endorsement, the insurance provided in this endorsement shall apply only as excess insurance over other valid and collectible insurance and shall then apply only in the amount by which the applicable Limit of Liability state above exceeds the sum of the applicable limits of liability of all such other insurance.

10. Statements in this Endorsement:

By acceptance of this endorsement, the Insured agrees that the statements contained herein, including those regarding the number of employees, are its representations and are true. The Insured agrees that this endorsement is issued in reliance upon the truth of such representations and that this endorsement embodies all agreements existing between the insured and us relating to the coverage provided by this endorsement.

11. Conformity with Statute

Terms of this endorsement which are in conflict with the statutes of the State wherein this endorsement is issued are hereby amended to conform to such statutes.

12. Cancellation

This endorsement may be cancelled by the Named Insured by surrender thereof to us or by mailing to us written notice stating when thereafter the cancellation shall be effective. This endorsement may be cancelled by us by mailing to the named insured at the address shown in the Certificate of Coverage written notice stating when such cancellation shall be effective. Such notice by us will set a cancellation date at least ten days after the notice. The mailing of such notice shall be sufficient proof of notice. The time of surrender or the effective date and hour of the cancellation stated in the notice shall become the end of the endorsement period. Delivery of such written notice either by the named insured or by us shall be equivalent to mailing.